

SB

8

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: May 16, 2003

FURTHER REFERRALS:

Date of Committee Action: May 18, 2003

The JUDICIARY Committee considered:

CSSB 8(JUD)

CS FOR SENATE BILL NO. 8(JUD)

TAMPERING WITH PUBLIC RECORDS

"An Act relating to tampering with public records."

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title


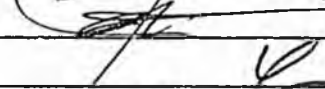
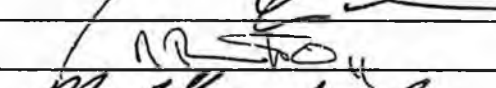
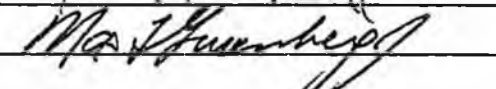
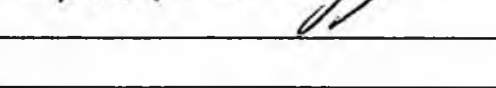
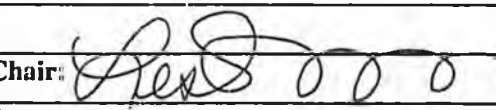
- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

NEW FISCAL NOTES				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
LAW	1			✓
ADM	2			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	SAMUELS			✓	
	HOLM			✓	
	GARA	✓			
	OAGA			✓	
	GREENBERG	✓			
Chair: 	McAure	✓			
Chair:					

CSSB 8(JUD)

" An Act relating to tampering with public records."

Senator Bettye Davis

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 8
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to tampering with public BRU Criminal Division
records." Component All
Sponsor Senator Davis
Requester Senate HESS Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill increases the penalty to a C felony for knowingly making a false entry in or falsely altering a public record; or knowingly destroying, mutilating, suppressing, concealing, removing, or otherwise impairing the verity, legibility, or availability of a public record, knowing that the person lacks the authority to do so, if the public record relates to a child under 18 years of age in the care or custody of the state. This crime of tampering with public records is currently a class A misdemeanor.

Anytime a misdemeanor crime is changed to a felony, the costs of prosecution increase. However, the Department of Law does not expect many of these new felony prosecutions to arise, and does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time 3/4/03 2:33 PM
Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General Date 3/4/2003
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSSB 8
(S) Publish Date: 5/7/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An Act related to tampering with BRU: Legal and Advocacy Services
public records Component: Public Defender Agency
Sponsor: Senators Dyson & Davis
Requester: (S)HESS Committee Component No.: 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
These two bills, when combined, would amend the crime of tampering with public records in the first degree, a C felony, to include knowingly making a false entry in or falsely altering a public record, or knowingly tampering with a public record, knowing that the person lacks the authority to do so, when the public record relates to child in the state's legal custody, or when the violation is with the intent to conceal a fact material to an investigation or services provided under child protective, juvenile delinquency, or vulnerable adult laws. Currently the offense of tampering with public records is an A misdemeanor. Representing an indigent defendant on a felony charge is generally more costly than a misdemeanor charge, however, the Agency does not anticipate many prosecutions for this new offense that would involve Agency appointment. Therefore, a zero fiscal impact.

Prepared by: Linda K. Wilson, Deputy Director Phone: (907)-334-4416
Division: Public Defender Agency Date/Time: 5/6/03 4:32 PM
Approved by: Mike Miller, Commissioner Date: 5/6/2003
Agency: Department of Administration

Alaska State Legislature

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Senator Bettye Davis

Senate Bill 8

Sponsor Statement

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Senator Bettye Davis

Senate Bill 8

" An Act relating to tampering with public records."

Sponsor Statement

The tampering of public records at any time is illegal and can create problems and set in motion a series of unintended consequences. However when the tampering involves the records of a child under the age of 18 or vulnerable adults in the care or custody of the state those consequences can be grave.

Accurate and honest record keeping are of paramount importance to the state in the decisions that must be made for our most vulnerable citizens. The mere fact that these individuals are already in the care or custody of the state suggests that they must be handled with extra care. We must take that extra step to insure all records dealing with their care are maintained with highest standard of integrity.

I ask for your support in the passage of this important legislation.

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Senate Bill 8

Sectional Analysis

Changes within Statute

Areas in Title 47 Impacted by Bill

Sentences of Imprisonment for Felonies

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Sectional Analysis Senate Bill 8

Section 1. Amends the crime of tampering with public records in the first degree¹ by adding a new form of that crime that is committed when someone engages in certain activities prohibited by AS 11.56.820(a)(1) or (2) and the public record relates to a child in the care or custody of the state.

Committee Substitute for Senate Bill 8 (JUD)

- Amends the crime of tampering with public records in the first degree by elevating to a Class C Felony a new form of crime for persons that tamper with records in the following areas in Title 47. *Welfare, Social Services and Institutions*:
 - Chapter 10. Children in Need of Aid
 - Chapter 12. Delinquent Minors
 - Chapter 17. Child Protection
 - Chapter 20. Services For Developmentally Delayed or Disabled Children
 - Chapter 24. Protection of Vulnerable Adults

Specifically if the person who tampers with these records does so with the intent to conceal a fact material to an investigation or the provision of services covered under each of the areas named above.

Senate Bill 8 is designed to as a disincentive to those who would falsify these records.

SB 8 Changes Underlined

AS 11.56.815. Tampering With Public Records in the First Degree.

(a) A person commits the crime of tampering with public records in the first degree if the person violates

(1) AS 11.56.820(a)(3) with intent to obtain a benefit for that person or any person or to injure or deprive another person of a benefit; or

(2) AS 11.56.820(a)(1) or (2) with the intent to conceal a fact material to an investigation or the provision of services under AS 47.10, AS 47.12, AS 47.17, AS 47.20, or AS 47.24.

(b) Tampering with public records in the first degree is a class C felony.

AS 11.56.820. Tampering With Public Records in the Second Degree.

(a) A person commits the crime of tampering with public records in the second degree if the person

(1) knowingly makes a false entry in or falsely alters a public record;

(2) knowingly destroys, mutilates, suppresses, conceals, removes, or otherwise impairs the verity, legibility, or availability of a public record, knowing that the person lacks the authority to do so; or

(3) certifies a public record setting out a claim against a government agency, or the property of a government agency, with reckless disregard of whether the claim is lawful, or that payment of the claim is not authorized in the budget of the government agency.

(b) In this section

(1) "certifies" means attesting to the existence, truth, or accuracy of facts, or that one holds an opinion, stated in a public record; the term includes the responsibilities for state officials set out in AS 37.10.030;

(2) "falsely alters" has the meaning ascribed to it in AS 11.46.580 ; and

(3) "makes a false entry" means to change or create a public record, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or by any other means, so that the record so changed or created states or implies a fact that the maker knows is not true, or states or implies an opinion that the maker does not hold.

(c) Tampering with public records in the second degree is a class A misdemeanor.

Provisions in Title 47 that are affected by CS for Senate Bill 8

Title 47. Welfare, Social Services and Institutions

- Chapter 5. Administration of Welfare, Social Services and Institutions
- Chapter 7. Medical Assistance For Needy Persons
- Chapter 8. Assistance For Catastrophic Illness and Chronic or Acute Medical Conditions
- ▶ Chapter 10. Children in Need of Aid
- ▶ Chapter 12. Delinquent Minors
- Chapter 14. Juvenile Programs and Institutions
- Chapter 15. Uniform Interstate Compact On Juveniles
- ▶ Chapter 17. Child Protection
- Chapter 18. Programs and Services Related to Adolescents
- ▶ Chapter 20. Services For Developmentally Delayed or Disabled Children
- Chapter 21. Adventure-Based Education
- Chapter 23. Child Support Enforcement Agency
- ▶ Chapter 24. Protection of Vulnerable Adults
- Chapter 25. Public Assistance
- Chapter 27. Alaska Temporary Assistance Program
- Chapter 30. Mental Health
- Chapter 31. Mental Health Treatment Assistance Program
- Chapter 33. Assisted Living Homes
- Chapter 35. Child Care Facilities, Child Placement Agencies, Child Treatment Facilities, Foster Homes, and Maternity Homes
- Chapter 37. Uniform Alcoholism and Intoxication Treatment Act
- Chapter 40. Purchase of Services
- Chapter 45. Alaska Longevity Bonus
- Chapter 50. Office of Child Advocacy
- Chapter 55. Pioneers' Home
- Chapter 60. Multi-Purpose Senior Centers
- Chapter 62. Office of the Long Term Care Ombudsman
- Chapter 65. Service Programs For Older Alaskans and Other Adults
- Chapter 70. Interstate Compact On the Placement of Children
- Chapter 75. Social Services Planning
- Chapter 80. Persons With Disabilities
- Chapter 90. Displaced Homemakers

AS 12.55.125. Sentences of Imprisonment For Felonies.

(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

- (1) if the offense is a second felony conviction, two years;
- (2) if the offense is a third felony conviction, three years.

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Senator Bettye Davis

Senate Bill 8

Background Materials



A Critical Look At the Child Welfare System Falsification of Records



Caseworkers often are caught in a Catch-22 situation, where they would have to doctor paperwork or have to acknowledge that they are not doing their job.

Benjamin Wolf -- American Civil Liberties Union
September, 1996

FALSIFICATION OF RECORDS

In southwest Florida, a supervisor of child-abuse investigators instructed several caseworkers to falsify reports to improve his unit's performance numbers, according to a 1991 Health and Rehabilitative Services Inspector General report.

In Broward County, state records show some child-abuse investigators were also lying about their cases. The investigators, many in an evening unit that tended to get the most dire cases, sometimes failed to visit reported child victims for up to a year. They never interviewed key witnesses, and decided without enough information whether or not children suffered abuse.

Worse, some supervisors were aware of these problems and failed to take corrective action.[1]

Investigators in Dade and Broward Counties, along with southwest Florida "have been caught faking and mishandling investigative reports." [2]

Notes the *Miami Herald* in part of an ongoing series: "This indicates an endemic problem. And, in fact, similar reports have implicated HRS offices elsewhere." [3]

What are the effects of all of this on the children the caseworkers are supposed to be protecting? According to the May 24 edition of the *Miami Herald*, the results are devastating:

- Even though HRS is supposed to be monitoring his welfare. 14-month-old

Courtney Sirns is beaten for three months in a relative's home in Lauderdale. Two people warn that the child is in trouble, but the counselor supervising his care reports he is "doing fine." In October, he dies after being slammed into a metal door.

- Twice in 1991, HRS is told a Miami man is beating his children. Twice, police say, HRS investigators take too long to show up, then dismiss the complaints. In December, the man's infant son, Akeem Oats, dies of a beating.
- A child-abuse investigator in Broward gets a report in June that a man is sexually assaulting his 11-year-old niece. The investigator does nothing. By the time HRS finally sends another investigator out in November, the girl has been raped.

In 1994, a teen who spent most of her life in foster care or shelter homes filed suit against the Florida agency, charging that years of neglect left her mentally and physically scarred.

The girl's story of beating, torture and starvation at a foster home, rejection, intimidation, and allegations of sexual abuse at others, was chronicled in a 1993 *Tampa Tribune* series called "Nobody's Child," in which she is identified only as Jane.

In 1979, Jane was beaten, burned, tied to a bed and nearly starved to death at one foster home. A Health and Rehabilitative Services investigator would conclude that her caseworker either condoned the abuse or falsified visitation records.

"It's a horror story, not unlike many I've heard," said HRS Secretary Jim Towe.^[4]

Do these narratives represent isolated cases? Sadly, falsification of visitation records, case histories, and even evidence would appear to be more the rule than the exception among many child protective services caseworkers. And the problem is not limited to Florida.

In South Carolina, the supervisor of the Aiken County Child Protective Services unit, along with the supervisor of the County Treatment Unit were arrested and charged with falsifying the records surrounding the removal of Krystal Scurry and her brother from their home.

A total of six Social Services workers, including the County Director of Foster Care, would eventually be charged in connection with the case. The multiple charges would include ethics violations, falsification of records, neglect of duty and embezzlement.

None of this would have come to light had two-year-old Krystal Scurry not been raped and murdered at the hands of the foster mother's son--after having endured a year of physical abuse at the hands of her foster mother.

Krystal Scurry was one of five foster children killed in South Carolina foster homes between February 1991 and January 1992. [5]

CULTURE OF LIES

In Louisiana, a 1992 case involved child protective caseworker Paula Bennett and her

supervisor Sheryl George. They were charged with misrepresenting facts concerning interviews with the plaintiff's children and the existence of crucial evidence, and of lying to a judge and the District Attorney.

The caseworkers claimed immunity from prosecution, but the Court of Appeals held that: "Any reasonable state actor employed in a capacity which embraces law enforcement would surely realize that misrepresenting or concealing facts to judges or prosecutors is a violation of the accused's guaranteed rights under the United States Constitution."[6]

Sometimes, child protective workers don't even bother to falsify their records. They simply don't maintain any.

In February of 1994, the state of Massachusetts terminated its contract La Alianza Hispana, a private agency that was supposed to be monitoring a Roxbury mother who allegedly scalded her 4-year-old son by plunging his hands into boiling liquid.

In at least nine of 17 cases reviewed by officials, families that should have been visited at least once a month by Alianza social workers had not been visited for a year, according to Massachusetts Department of Social Services Commissioner Linda Carlisle.

According to a source familiar with the investigation, Alianza was unable to produce any records for four families it was supposed to be monitoring. Carlisle also said Alianza case workers falsified reports, claiming to have visited some families when they had not.

A team of Department of Social Services officials reviewing the private agencies work reportedly wrote "outrageous" and "This is scary!" on some of their reports.[7]

In 1996, DSS commissioner Carlisle overhauled a Boston Department of Social Services office that lost track of two young boys under its watch who ended up dead, taking the unusual steps of firing a social worker and her supervisor and demoting two managers.

An internal review found that the social worker assigned to the case had filed no reports or records about the family, and had failed to enter any notations for any other family under her supervision for several months. Her supervisor did not review her casework, and had completed only six of the 360 quarterly reviews for which he was responsible.

At one point, about 40 employees came to the commissioner's office urging leniency. After Carlisle proceeded with the firings, union officials protested.[8]

So, too, did union officials protest the terminations of child protective caseworkers in a similar case in Illinois, where two caseworkers with the Department of Children and Family Services were charged with falsifying records in child-abuse cases and failing to make home visits that might have saved the lives of two children who later were murdered.

Hattie Roland was indicted by a Cook County grand jury on 63 counts of official misconduct and charged with failing to file reports, falsifying reports, failing to provide protective services and failing to make monthly family visits.

Diane Henton was indicted on eight counts of official misconduct on charges of closing a case improperly, failing to report abuse and failing to provide protective services.

Before being fired, both of the caseworkers had been promoted to supervisory positions.

A leader of the union that represents the Illinois department workers said that if the employees are being indicted for failing to adequately protect abused children, then "every single DCFS worker is guilty."

Said outspoken Cook County Public Guardian Patrick Murphy: "They lie, and they do it all the time. They can do this because there is nobody to scrutinize them. They are above the law." [9]

In a remarkably similar case, the Illinois Supreme Court upheld the firing of a caseworker who had falsified case records claiming that three girls she was supposed to monitoring were: "doing fine and have adjusted well to placement with the maternal grandmother."

In reality, the siblings had died months earlier in a fire that gutted their apartment, leaving their grandmother severely burned. [10]

A spokesman for the American Federation of State, County and Municipal Employees, which had successfully defended caseworker Vera DuBose in earlier proceedings, called the ruling a bad precedent for other cases involving agencies that drag their feet in disciplining workers.

Children's rights experts said that the case reflected larger problems at DCFS that were especially prevalent in the early 1990s, and agency critics said the case shed light on a "culture of lying" at DCFS.

Said Benjamin Wolf, the ACLU attorney who had successfully sued the agency to implement reforms in 1988: "Caseworkers often are caught in a Catch-22 situation, where they would have to doctor paperwork or have to acknowledge that they are not doing their job."

Like her companion workers in Cook County, DuBose had been promoted to a \$34,000 investigators position shortly after filing the false progress report on the girls. [11]

Her promotion proved to be her undoing when the caseworker assigned to replace her visited the girl's residence, only to discover a burned-out shell. Neighbors told him the girls had died in the fire.

A year later, she was still on the job. It took DCFS that long to make its decision to fire her. [12]

Around this time, another DCFS caseworker was convicted of lying to a judge in a case in which an infant had died.

Ahmad Muhammad told a Cook County Juvenile Court judge that a cocaine-addicted mother had completed her court-ordered drug treatment and parenting classes. On the basis of his testimony, the judge halted state monitoring of the woman. Six months later, she was charged with fatally beating her infant son while under the influence of cocaine.

Testimony at Muhammad's contempt trial revealed that he had never called the woman's drug-abuse counselor to check on her progress.

Just like his co-worker, a year later Muhammad was still on the job as a DCFS caseworker, notwithstanding that by this time it had come to light that he had a criminal conviction involving armed robbery, larceny and forgery in another state.

Ed McManus, a DCFS spokesman, said the agency had no prohibition against hiring someone with a criminal record, unless the crime involved child abuse, and that living on a job application is reviewed on a case-by-case basis.

"We take it seriously, but we need good people, and we're not going to throw away a good person without a careful review," he said.[13]

FROM WHITE-OUT TO WHITEWASH

In Utah, after months of speculation about an alleged "whitewash" of wrongdoing in the Moab office of the Division of Child and Family Services, officials released drafts of an internal investigation that was "less heavily edited" than one which had been previously released to the public.

The investigation by the Bureau of Service Review began in September 1995, when Assistant Attorney General Kenton Goodwill provided Human Services officials with 58 items that he considered as problems in the Moab office.

Goodwill suggested in his list of complaints that staffers were deliberately not closing cases once the court discharged them in order to inflate caseloads. While the audit did verify that some cases were not closed, it did not conclusively determine why.

The investigative report verified that some treatment plans were falsified by having been backdated, interviews with children were not timely or were inadequate, and children in state custody were sometimes not visited for several months.

The report concluded: "This problem also is not isolated to the Moab office. Previously, the bureau has identified this issue as a statewide problem." [14]

The extent to which some individuals with a vested interest in maintaining the status quo is perhaps best illustrated by the outcome of this case.

In 1997, Sherianne Cotterell, a member of a three-member monitoring panel overseeing the State's compliance with a recent lawsuit, resigned citing job stress as a key factor.

Cotterell's role in writing reports critical of agency compliance and in pursuing information about the audit being kept secret in Moab led to death threats against her.[15]

By 1998, a member of the monitoring panel said the number of children who have been compromised while the settlement languished was "mind-boggling."

Pam Rasmussen said the division has reshuffled people but not terminated incompetent

employees, and that some workers continue to fabricate paperwork.

Apparently, they weren't very clever at how they did it either. "I mean, if you're documenting something from 1997, don't use a '98 form. That goes to show they're not even thinking that through. They're fudging the documents," said Rasmussen.[16]

In Texas, a Grand Jury was convened in Tom Green County in November of 1987. The Jury was charged with the task of investigating the regional Child Protective Services division of its Department of Human Services. Among the Jury's findings:

- That false entries into records at DHS have been made in violation of the law
- That the system that exists appears to encourage inaccurate or false recordkeeping with no system of verification

The Grand Jury also found that management in one regional office has failed to correct inadequacies "although they have been aware that problems have existed for two to three years." Among the recommendations put forth by the Grand Jury:

That the Commissioner of DHS determine whether inaccurate or false recordkeeping, though in violation of law and policy, is nevertheless being practiced statewide, at worker and management levels . . . [17]

In 1992, an attorney with the Texas Department of Protective and Regulatory Services alleged that she was instructed by her supervisor to proceed on a parental rights termination case, even though she felt there were no grounds to pursue the case.

She first wrote letters to general counsel of the Department, claiming that there were ethical problems and possible due process violations in the case.

Some time later, she was told by a Department employee that the caseworker assigned to the case had been instructed to alter the case record.

Her efforts to expose the possible misrepresentations and due process violations included discussions with her supervisor, the State Bar of Texas, the trial court and opposing counsel in the case, as well as the Office of the Inspector General.

Thereafter, she filed a Whistleblower lawsuit alleging that she had been retaliated against by her supervisor for her efforts in exposing the possible misrepresentations, also filing a claim that a former supervisor in the Texas Department of Human Services had falsified time records.[18]

The suit would never go to trial, as it was dismissed on procedural grounds, but the problems suggested by this case would appear to be widespread.

In May of 1990, the Regional Director of Protective Services in the Arlington region of Texas distributed an internal memorandum to CPS Program Directors and Supervisors. The subject of the memorandum: "Alternations, Backdating and Reconstruction of Case Records."

The memorandum detailed some of the methods employed by child protective caseworkers to falsify case records and service plans: "There should be absolutely no changes made to the service plans by use of white-out, correction tape, adding information or backdating.

"If part of a case record has been lost or a particular service plan was not done, do not reconstruct the plans and back date the plans with the date that the plan was actually due."

The memorandum concludes: "It is important to remember that whether or not there was a deliberate attempt to falsify, backdate or alter a case, it does indicate alteration of a case record which is considered to be a public record and may result in legal or personnel consequence, up to one including dismissal." [19]

The problem of backdating forms to render the appearance of being in compliance is not limited to Texas. In New York City, a 1989 audit conducted by the Office of the Comptroller determined that in more than one in five cases studied, caseworkers had falsified records "by altering dates and backdating forms" in order to appear to be in compliance with deadlines that had actually been missed--sometimes by years.[20]

In California, seven Los Angeles County social service employees were fired or disciplined in 1995 when children under their jurisdiction were fatally abused by parents or caretakers, according to a confidential report requested by county supervisors.

The report examines the homicides of a dozen children whose families had at some point been under investigation for child abuse or neglect. Eight of the children were under the supervision of the county Department of Children and Family Services when they died.

In one case, the department investigation found that when the child's social worker went on leave, a supervisor failed to reassign the case and falsified records. As a result, the child was "not seen or assessed for six months prior to his death." [21]

Some years earlier in California, the 1988-89 San Diego County Grand Jury examined several cases, one of which involved a six-year-old girl had been removed from her home on allegations of excessive punishment on the part of her parents.

During her first ten months in placement, the girl had experienced eight changes in placement. The child was then sent out of the State with incomplete paperwork. When that placement failed, she was returned to San Diego without a definite plan for foster care. After three weeks in San Diego, her parents had still not been notified of her return. By this time, the girl had been in foster care for two and a half years.

The Grand Jury observed "inaccurate statements in the social worker's report that were not corrected," noting that the social worker further delayed resolution of the case by failing to communicate with personnel regarding court orders.

In another case the Grand Jury examined, discrepancies were found between police and medical reports, and the caseworker's continuing written account, in which she indicated suspicions against a grandmother that were contrary to all available evidence.

Yet another case involved "conflicting statements between the school personnel and the social worker's report regarding the dates the abuse occurred and was reported." [22]

Three years later, another Grand Jury conducted a comprehensive investigation of the San Diego County child welfare system, interviewing hundreds of system professionals, examining thousands of pages of documents, observing nearly one hundred juvenile dependency cases and listening to one month of sworn testimony.

According to a letter addressed to the Chairman of the Public Safety Committee, the San Diego Grand Jury had:

seen repeated episodes of social worker perjury in court reports, and indeed, even in court testimony;

heard testimony of social workers lying to adoptive parents about the past history of children available for adoption;

read numerous Social Study reports written by social workers and filled with innuendo, half truths and lies;

seen documented evidence of social workers conspiring to place children for adoption with their own family members even while reunification with natural family members was in process.

The Grand Jury offered 92 recommendations, including that the Board of Supervisors seek legislative changes in the immunity provisions which insulated social workers against accountability.[23]

FRAUD, COERCION, PERJURY, COVER-UPS AND LIES

In 1996, Florida State Senator John Ostalkiewicz called for a full-scale investigation of the Florida Department of Health and Rehabilitative Services after hearing testimony from parents and experts, all of whom told horror stories of child abuse investigations mismanaged by the state agency.

"We need a full-scale investigation of this department, with subpoena power," he told a cheering audience at the Orange County Administration Center.

"What we're hearing about here is fraud, coercion, perjury, cover-ups and lies," he said. "It's time for this stuff to come to an end."

The most compelling testimony came from Glades County Chief Deputy Circuit Court Clerk Richard Blackwell, chairman of the HRS District 8 Human Rights Advocacy Committee, a volunteer advocacy group that investigates client complaints against HRS.

Blackwell told of his firsthand knowledge of the agency's misdeeds. His examples dated from 1991 to August 1995 and included the killing of a baby girl. Although neighbors told the media the baby's family had been reported for abuse several times, HRS workers denied it, Blackwell said.

When an HRS employee found records of those previous reports, agency workers secretly

destroyed them. he said.

"Documents were being altered, shredded," testified Charlotte Kay, a former HRS employee who watched the destruction of the documents. "It went on and on and on . . . It was nothing but a cover-up." [24]

The Massachusetts Department of Social Services finally admitted something many of its critics have long suspected -- that the department validates cases without even a cursory examination.

State social workers are filing abuse complaints against parents without interviewing them or their children, and then claiming in letters to the parents that family interviews were part of the investigation supporting the abuse charge.

The admission followed a decision to reverse an abuse claim against a doctor who was accused of neglect when she left her two young children unattended for less than two minutes in a locked car.

She was sent a letter 10 days after the incident informing her the charge of neglect against her was supported "after visiting with you and your children and talking to other people who know your family." The social worker had not talked to any of the people she cited and the doctor had been vacationing with her family in Colorado at the time. [25]

Falsifications such as these represent only the more overt practice of the art of deception, and cases such as these indicate fundamental problems in the child welfare system.

When caseworkers inflate their caseloads to increase or maintain government funding, or to justify inadequate response to crisis situations; when investigators falsify visitation records; when caseworkers falsify records to justify wrongful removals; and when supervisors ignore or encourage their deception, it is real children who suffer.

These children endure continued, and sometimes fatal abuse at the hand of heartless parents, foster parents and caretakers. Hundreds of thousands of children endure separation from loving families as they continue to "languish in inappropriate placements, with scarce hope of returning to their families or being adopted," all hope of a brighter future having been stripped away from them. [26]

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Senate Bill 8

Newspaper Articles



Rilya Wilson, seen in this undated handout photo from Miami-Dade Police, was reported missing on April 25 — more than a year after she disappeared. (Miami-Dade Police/AP Photo)

More Rilyas?

Too Many Cases, Too Few Resources Make Child Welfare Tough Job

By Geraldine Sealey

abcNEWS.com

June 5

— The case of 5-year-old Rilya Wilson, who was missing from a Florida foster home for more than a year before anyone noticed, has drawn the ire of a shocked public. But perhaps it is more surprising that there aren't more Rilyas out there.

Florida's child-welfare agency failed to see 1,237 children in its custody last month, officials announced this week. In Rilya's case, the state did not notice she was missing for 15 months. Her caseworker stands accused of falsifying monthly visit reports.

"Our job is humanly impossible," Christina Castel, a central Florida child protective investigator told state legislators on Tuesday. "I can't help but think we are being set up to fail." Castel took on 60 cases when she was hired two years ago — the professional standard of the Child Welfare League of America is 17 per caseworker.

Florida foster-care employees also lack cell phones, laptop computers, and access to critical information for their cases, they say.

The Rilya Wilson case has brought the overburdened, beleaguered child-welfare system into national attention. The Rev. Al Sharpton, a civil-rights activist, called this week for a criminal probe into the girl's disappearance, and Florida politicians holding hearings are looking for scapegoats.

Lawyers, government officials, caseworkers and advocates who devote their lives to child welfare say blame for the system's ills should be spread far and wide, and that even if Florida is a bad case study, its experience is not rare.

"Florida is like much of the rest of the country only more so," said Richard Wexler, executive director of the National Coalition for Child Protection Reform. "What happened in Florida could have happened in almost any system, but if someone described the [Rilya Wilson] story and asked what system it happened in, I would say Florida."

Problems From Washington State to D.C.

For sure, Florida's foster care misery knows company.

Almost 600,000 children are in government care across the country, and even the \$15 billion spent annually to protect children from neglect and abuse is not enough to help agencies meet their own legal and professional requirements.

All too often, experts say, caseworkers carry heavy loads that make it possible to lose track of children — or even impossible to keep track of them. The average caseworker's load is 40 to 60 children.

And historic, crippling state budget shortfalls further threaten the child-welfare systems across the country.

- In Iowa, nearly \$23 million has been slashed from state child-welfare programs even though child-abuse cases have skyrocketed to an all-time high, the *Des Moines Register* recently reported. At the same time, about 340 state human-services jobs have been cut or left vacant.
- In Mississippi, federal officials are keeping tabs on whether money and staffing shortages at the state welfare agency are endangering children and families. Almost half of the state's social worker positions are vacant, leaving less than 200

caseworkers handling 3,000 children.

- In Seattle, a newspaper disclosed dozens of instances in which children under the care of child-welfare workers died from abuse or neglect.
- The *Washington Post* won a Pulitzer Prize this year for exposing records of the deaths of 180 of 229 children under the city's care.

Age-Old Debate: Money vs. Resources

Florida's experience not only highlights the worst problems in foster care, but illustrates the difficulties of improving the system.

The state has convened nearly a dozen special panels to study child welfare in the last 15 years, and is still unable to prevent tragedies like Rilya Wilson's. Even a new \$230 million computer system designed to keep track of children under state care got a failing grade from half of the caseworkers who used an early version of it.

Is there a solution? As with many public policy issues, the age-old debate focuses on whether to throw more money at the problem or devise better strategies.

While many child-welfare advocates say money would surely help, they agree that it is not enough.

"It's not an either-or; you need increased resources and better ways of doing business," said Mary Lee Allen, director of the child welfare division of the Children's Defense Fund. "If you don't have a vision, pumping dollars into the system won't help children. The question is, How will we better protect children?"

Still, experts say budget cuts can ultimately hurt child safety. All too often, policymakers train their fiscal axes first on programs aimed at prevention, they say. Cutting such programs could be counterproductive since they help keep children out of the foster-care system in the first place, Allen said.

"We believe strongly that when you look at the tragedy in Florida, it is the tragedy about to happen in too many states," Allen said. "If we're going to make a change we'll have to put more resources into the front, prevention end."

Accountability Fights Corruption

Michigan provides a good example of how boosting prevention programs can help keep kids safe, she said. Caseworkers help families to identify what they need to stay safe and together, then the child-welfare agency approves and monitors the plan to keep the family together.

Other positive examples can be found in Illinois, where parents serve as "recovery coaches" to other at-risk parents, and in Arizona and Maryland, where child-protective agencies and alcohol and drug agencies work together. In Massachusetts, domestic violence and child-protective offices make joint efforts.

Alabama and Pittsburgh are also considered national leaders in child welfare for programs that seek to keep families together and cut the use of foster homes.

Increased accountability for caseworkers and their supervisors is one critical reform that does not have to be expensive, said Sarah Hechtman, a lawyer with Children's Rights, an advocacy group involved with litigation over Florida's foster-care system.

Caseworkers are often young and inexperienced, carry high caseloads, and have supervisors with equally high workloads who cannot do an adequate job, she said. Worse, Florida state workers have been accused of hiding files and mishandling cases to cover up for shoddy work. Dishonesty in the system is not rare, Hechtman said — her group is filing lawsuits over corruption issues in New Jersey and Wisconsin.

"It runs rampant throughout the system," Hechtman said. "Unfortunately, doctored records and lying to the court is all too familiar to those of us who work with these systems." ■

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The Miami Herald
Herald.com

Posted on Sat, Jun. 08, 2002

Boy who died was left in bad home

DCF took siblings, left the youngest
BY CAROL MARBIN MILLER
cmarbin@herald.com

Police dug James "Jami" Cotter from a shallow grave behind a Fort Myers trailer on May 23. It would have been his fifth birthday.

The Department of Children & Families already had taken Jami's siblings away from their parents, who had been reported at least 16 times for allegedly abusing the children.

But inexplicably, the DCF left Jami behind -- then never checked on him again.

In turn, Jami's mother, Lillian Maxine Priest, left the boy with Steven Landry, a neighbor who had been accused of abusing, neglecting and molesting children.

And as the nation watched Florida child welfare officials explain how Rilya Wilson, a 5-year-old foster child, could simply disappear from state care, Gov. Jeb Bush quietly called for an investigation to find out whether the DCF had failed another child -- Jami. One child welfare official called his death "the worst case I've ever seen of total departmental indifference toward a young human being."

Police say Landry killed the boy in early May. They have charged him with manslaughter because the boy's body was too badly decomposed to leave any clues as to how he died, other than a broken collarbone, said Capt. Richard Chard of the Lee County Sheriff's Office.

James Cotter's brief life and his death raise troubling questions about the ability of child welfare administrators to protect children they know are at risk.

Jami's story also casts serious doubts on the agency's consistent claims that the scandal now enveloping Rilya Wilson stands as an "isolated case." Rilya went unnoticed by department counselors for more than 15 months and has disappeared from Florida's foster care system.

The DCF's records on Jami's family show numerous red flags, but the records show no sign that an effort was made to ensure he was safe after his older brother -- and, later, his older sister -- were taken into foster care.

NO SUPERVISION

Alia Faraj, a DCF spokeswoman, said Jami wasn't given DCF services or supervision after his older brother, the victim of a severe beating, was taken into foster care. Faraj declined to discuss the case further, citing the confidentiality of DCF records.

Jami was the youngest child in the home of Priest and James Cotter Jr., who were married in Labelle, Fla., in 1998 and divorced in April. Cotter has worked as a prison guard and is licensed to work in private security.

The family's history with the state dates to December 1995 when the DCF's predecessor, the Department of Health and Rehabilitative Services, received its first report saying an 11-year-old daughter had been sexually abused by another youth. The report, the first of seven to name the girl as a victim of abuse or neglect, was closed, with officials finding some evidence of abuse but not enough to verify the allegations.

REPORTS ON BROTHER

In the summer of 1997, the department received three separate reports on Jami's older brother, then 4, who was developmentally disabled and suffered severe emotional disturbances. The boy's parents had committed him to a psychiatric hospital, where he remained much of that summer.

One report accused Priest of refusing to give the child needed medication and handling him roughly to control his outbursts. Another report said Priest "physically abused [him] while visiting" him in the hospital, leaving bruises on both his thighs. The last report also mentioned bruises, a cut to the boy's forehead and an injury to his palm in which "the top layer of skin [was] removed."

While investigators were convinced the boy was abused, they could not determine who left the bruises, so no action was taken.

Reports about the boy were made to the state's abuse hot line eight times between 1997 and 1999, when administrators finally removed him from his parents' home and placed him in protective custody.

Among the most alarming reports are two calls in April 1999. In the first call, on April 12, a caller said 1-year-old Jami "has been having suspicious injuries. Last week, he had bite marks all over his body. He now has a huge bruise on his thigh, a faded bruise around his eye and a scrape on his nose."

Department investigators were set to close the case and attribute the injuries to horseplay between Jami and his older brother when a far more serious report was made on the brother.

On April 27, the 6-year-old brother arrived at school "very disoriented," a report states.

"He had a cut under one eye and his left ear is completely black and blue. He has what appears to be a [bloody] adult fingernail mark behind his ear. . . . He has several small bruises on his arms, some faded and some still black and blue [and] several bruises on his legs."

A detailed exam by the county's child protection team noted even more bruises and a blood clot in his right eye. DCF officials placed the boy in a protective shelter immediately.

By the following October, a judge terminated the parental rights of his mother and father.

The records offer no explanation as to why 1-year-old Jami was allowed to remain with Priest, or whether the DCF tried in any way to ensure his safety.

SISTER TAKEN AWAY

Two years later, in 2001, Jami's older sister was taken into state custody.

She was 16, and DCF caseworkers already had investigated seven abuse or neglect reports on the girl. She had run away from her mother, DCF reports say, because Priest did nothing when the girl was raped by a 34-year-old man and later molested by the mother's boyfriend.

Her father, the report said, kicked her in the stomach when he found out she was pregnant with a biracial child. Her father denied the allegation to DCF investigators.

A May 2, 2001, report said the girl had been "abandoned" by her parents and was living with friends with her newborn child.

A short time after his older sister was taken into state care, Jami was living with the Landrys.

Sometime around February 2001, Priest left 3-year-old Jami with neighbors Steve and Linda Landry. Priest gave the couple a notarized, handwritten piece of paper granting them the authority to make decisions on her behalf, said Chard of the Lee County Sheriff's Office.

A year later, in January 2002, Priest tried to see her son, as she had done now and again, Chard said. Every time she called, the Landrys offered an unlikely excuse for why the boy was unavailable. She called police.

A few days later, on Jan. 8, a report to the state's abuse hot line alleged Jami was seen with "bruises" of an unknown origin.

"[The Landrys] said that the mother had the child over the weekend and the child got the bruises when he was in the mother's care," the report states. "There is concern that [the Landrys] should not be caring for this child because they have had five to six children removed from their care in the past in Massachusetts."

Steven Landry, whose occupation is listed by the Florida Department of Law Enforcement as "bouncer," was arrested in 1991 for alleged child sex abuse. He appears not to have been prosecuted on the charge.

Between January 1996 and July 1998, three callers to the abuse hot line reported that Landry was molesting, neglecting and abusing his daughter. The home was filthy, callers said, and the child received little food because her father spent all his money on crack cocaine. He later was accused of allowing a friend to molest the girl.

Twice, allegations were forwarded to the state attorney's office, which declined to prosecute, said Detective Lisa Barnes of the Cape Coral police.

Steve Emerson, an agent with the Florida Department of Law Enforcement, said he does not know yet, either, whether Jami was under any type of supervision. "We are trying to get those questions answered," he said.

One Tallahassee child advocate, Karen Gievers, was appalled by the DCF's treatment of Jami.

"Oh, God, what a nightmare," said Gievers. "There's no excuse for them doing their jobs in this manner.

"Once again, the child has to pay the price."

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DCF worker charged with falsifying records in case of slain toddler

By RACHEL LA CORTE
Associated Press

July 12, 2002, 3:55 PM EDT

LAKELAND -- A worker with the state Department of Children & Families was charged Friday with falsifying records in the case of a toddler found dead on the side of a road in central Florida.

DCF Secretary Kathleen Kearney said Erica Jones reported in her files that she visited 2-year-old Alfredo Montez and his 4-year-old sister Rheyne on July 1, the day police say the child was slain.

Jones faces a third-degree felony and turned herself in, officials said.

Montez's body, wrapped in a children's bedspread with figures of Disney's "101 Dalmatians" on it, was spotted late Thursday by a passing motorist 30 feet off the edge of Interstate 275 in west-central Florida.

Authorities prepared Friday to bring a couple charged in the child's beating death back to Florida.

Richard Chouquer, 23, is accused of beating Montez to death after the boy soiled his pants, police said. He is charged with first-degree murder and aggravated child abuse.

Amandy Lawrence, 22, is charged as an accessory after the fact to first-degree murder, under an arrest warrant issued by a Polk County judge, according to Polk County Sheriff's Officer Kim Garrett.

Chouquer and Lawrence were being held Friday in Hurricane, Utah, where they were arrested Wednesday.

They were awaiting transfer to Florida to face charges in Polk County, which could take up to 10 days.

The DCF has been under fire for its handling of children since it became public the agency lost track of 5 year old Dilus Wilson of Miami. Her disappearance went unnoticed for at least 15 months

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Gov. Jeb Bush said Friday that Alfredo was not under state care. He said the DCF employee was assigned to visit the child to check out a neglect complaint.

"The supervisor will be fired and the caseworker will be prosecuted for her actions," Bush said following his speech to the Florida PTA Leadership Conference in Tarpon Springs. "It's heart breaking. It's incredible."

Under a new state law prompted by Rilya's case, falsifying documents related to children, the elderly or disabled in state care could be punishable by up to five years in prison. If the person is seriously hurt or dies because of the records fraud, it could be a second-degree felony punishable by up to 15 years in prison.

"The law that we passed will now kick in and there will be a prosecution," Bush said Friday.

Deputies said Alfredo was killed July 1. The boy's mother, Jeanna Lynn Swallows, had left him and his sister in the couple's care at their central Florida mobile home in Auburndale on June 28.

On July 4, Lawrence left Rheyne with Lawrence's cousin, Carmen Valdez. The boy was not with her at the time, police said. Rheyne is now in the custody of her paternal grandmother, Carol Smith of Lake Wales.

Valdez told police she asked where Alfredo was and was told the child was with a couple from Orlando.

Authorities learned that Alfredo was missing when Valdez called them Monday.

Chouquer told investigators in Utah he was disciplining Alfredo after the boy soiled his pants, said Polk County Capt. W.J. Martin.

"He physically struck him with excessive force at least five times in the face," Martin said.

After Alfredo lost consciousness and died, the couple put his body in the trunk of their car and drove until they found a place to drop him, police said.

Alfredo's sister, Rheyne, and the couple's two children, a 2-year-old boy and a 7-month-old boy, were in the car when the body was dropped on the side of the road, Martin said.

After the body was dumped, the couple drove to Albany, Ga., where Chouquer stayed with their two children.

Lawrence, who is pregnant, drove back to Auburndale to drop Rheyne off with Valdez on July 4, Martin said.

Lawrence went back to Georgia, and the couple and their children then went to Amarillo, Texas. They were wired money in Amarillo from a relative before continuing on to Utah, where one of them has family, police said.

Lawrence and Chouquer had been on the run since 2000, when Lawrence's other children, ages 5 and 6, were taken away after allegations of child abuse in Nevada, police said. Martin said Chouquer had been charged and served time in the Nevada case but he had no other information.

Martin said the couple had spent some time in Georgia before coming to Florida. Police believe they lived in Auburndale since November 2001.

Swallows was arrested Tuesday on a violation of probation warrant for writing worthless checks, Garrett said.

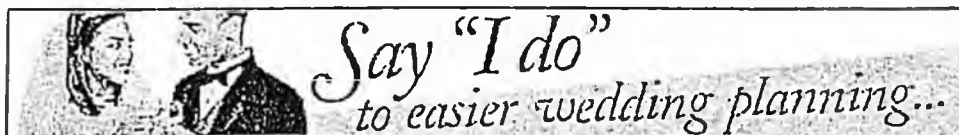
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Faking records not new at DCF

Neither is the agency's failure to check on children in its care. These issues take on new meaning in light of Rilya Wilson's case.

By CURTIS KRUEGER, Times Staff Writer

© St. Petersburg Times, published May 20, 2002

Neither is the agency's failure to check on children in its care. These issues take on new meaning in light of Rilya Wilson's case.

In the baffling disappearance of Rilya Wilson, a caseworker has been accused of falsifying records, and the Department of Children and Families is struggling to explain why it failed to check on her properly for more than a year.

This tragic scenario, Gov. Jeb Bush and DCF Secretary Kathleen Kearney have said, amounts to an isolated incident.

But caseworkers who falsify records and fail to check on children are not new concerns for the Department of Children and Families. They are well-known problems the agency has battled for years.

Documents from DCF and other sources show:

DCF child welfare workers have been cited at least 14 times since 1999 for falsifying records in their work on behalf of children considered abused or neglected, according to DCF Inspector General's Office records reviewed by the St. Petersburg Times. One worker phoned in a false abuse report about a child she wanted to adopt.

DCF fired a family safety worker in Pinellas County in January 2000 for falsifying his application, but only after the agency's inspector general criticized his supervisors' inaction. The report said DCF managers "failed to investigate" and prepared paperwork that "implied that the staff were not concerned about the alleged falsifications."

An October 2000 review of 18 child welfare cases in Pinellas County stated that "in well over half the cases, reviewers noted that children and parents were not being seen in the home on a monthly basis. In some cases, months had passed without any documented contact with the family." These cases were handled by Family Continuity Inc., which works under contract for DCF in Pinellas and Pasco counties.

Several current and former employees of the child welfare system have testified in a lawsuit that counselors routinely falsified reports of visits to foster children, attorneys said in Palm Beach County last week.

DCF recently agreed to a \$5-million settlement in the case of six children who were physically and sexually abused in a Broward County foster home. Their attorney says DCF made no documented visits to the foster home for 20 months.

These issues are taking on new meaning as police and caseworkers search for Rilya, the 5-year-old Miami girl who disappeared while in the state's care.

Gov. Bush said during a visit to Brandon this week: "Falsification of documents, I hope, is isolated. But now, if it isn't, it is a felony in our state." He was referring to a law he signed this week that makes it a crime for workers to falsify child welfare records.

As to caseworkers visiting children at least monthly, Bush said, "We've made progress on that but last month, for example, in April, 8 percent of the kids weren't seen for a variety of reasons, and we need to improve on that."

Rilya disappeared after state workers removed her from her mother and sent her to live with Geralyn Graham and her sister Pamela. Geralyn Graham, who says she is Rilya's grandmother, said someone claiming to be from DCF removed the girl from their Miami home last year.

DCF says no records indicate this and they don't know where Rilya went.

But this much is clear: DCF was supposed to send a caseworker to visit Rilya at least monthly and make periodic reports to a juvenile judge. In reality, Kearney has said, "The casework, there is no doubt, was abysmal." The caseworker reported to a judge that Rilya was doing well, even though she had been gone for months.

Miami-Dade Circuit Judge Cindy Lederman blasted the department's handling of the case, and Kearney acknowledged she "had every right to be exceptionally angry."

Now, the hastily assembled Governor's Blue Ribbon Commission on Child Protection is looking into the handling of Rilya, and Chairman David Lawrence Jr. has specifically said he wants to determine if hers was an isolated case.

The St. Petersburg Times reviewed summaries of 14 cases in which DCF workers were cited for falsifying records since 1999. The documents show a variety of false information has crept into DCF paperwork that can help decide whether children continue to live with their parents. In some of the cases, the worker clearly was accused of deliberately providing false information; in others, it's not clear whether the misinformation was intentional.

In the southwest Florida DCF district, a worker was accused of having "misused the abuse hotline by calling in a false abuse report involving a child she was trying to adopt."

In another case, a family safety counselor in the Tampa Bay area was accused of falsely stating that an individual had been arrested and charged with child abuse. In another, an employee falsely stated the circumstances of an individual's previous drug arrest. In a Central Florida county, a counselor resigned after having "falsified records regarding visits with clients."

Each of the 14 cases involved falsifications in child welfare work.

Fourteen falsifications among tens of thousands of cases since 1999 are not enough to indict an entire department. But they show that falsifying records is a recurring issue. New child welfare workers are given ethics training that urges them to honestly and accurately document all their visits, said John Mullins, director of the Professional Development Center in Tampa, which trains workers hired by DCF and other agencies.

Child experts say it's important to visit foster kids monthly, but it isn't always done. University of Pennsylvania professor Richard Gelles said large states such as Florida often see only 50 percent of the children under their supervision.

Local DCF officials say the figure is much higher. "We've been running in the neighborhood of 90-plus percent," said Ron Zychowski, deputy regional director of a six-county DCF district that includes Hillsborough, Pinellas and Pasco counties.

Family Continuity says it has improved its visitation rate since the audit. "It's something we stress very highly. Children have to be seen," said spokeswoman Elaine Fulton-Jones.

In Brandon this week, Bush visited the offices of Hillsborough Kids Inc., which is taking over DCF's foster care work in the county in phases. In a meeting with Bush and other officials, Eva Horner of the Children's Home Society, a partner in the effort, said no one should think a monthly visit is the standard to shoot for. Children should be seen more often, she said.

"At least twice a month," she said. "That's kind of the standard that we're trying to set here."

-- Information from the Associated Press was included in this report. Times staff writer Curtis Krueger can be reached at krueger@sptimes.com or by calling (727) 893-8232.

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Senator Bettye Davis

Senate Bill 8

Press Release from Wisconsin ACLU

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FOR IMMEDIATE RELEASE
March 1, 2001

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MILWAUKEE CHILD WELFARE AGENCY DESTROYED AND FALSIFIED STATE RECORDS ABOUT TREATMENT OF CHILDREN IN FOSTER CARE

Children's lawyers ask judge for an order to halt further destruction of evidence in lawsuit seeking reform of Milwaukee's failing child welfare system.

(March 1, 2001 - Milwaukee) Lawyers representing children in the Milwaukee foster care system filed papers today in U.S. District Court charging that Bureau of Milwaukee Child Welfare (BMCW) children's case records detailing their treatment in foster care have been intentionally destroyed, altered and falsified on an ongoing basis. The plaintiff children's lawyers have asked the court for a hearing to receive evidence, issue an injunction against further destruction of this evidence, and to appoint a special investigator.

The court papers assert that children's records were destroyed, altered and falsified in order to claim that the agency is in compliance with state and federal requirements. Those requirements must be met if the agency is to continue receiving public funds and are expressly designed to ensure that children receive the protection and care they need while in state foster care custody.

Recent deposition testimony by Bureau staff includes the following facts:

- Denise Revels-Robinson, the BMCW director, repeatedly directed casework staff, during the second half of the year 2000, to modify case records relating to "high profile" cases after special case reviews of those cases had identified deficiencies.
- A State review of the out-of-home care program found that approximately 10 out of the fifty cases reviewed appeared to have foster home licenses that were backdated.
- A State review of the safety services program found indications that some of the documents that are completed weekly were either postdated or predated.

The court papers have been filed in the class-action lawsuit, *Jeanine B. v. Scott McCallum* which claims that children in the Milwaukee foster care system are being harmed by widespread mismanagement and violations of federal law.

"Falsifying children's case treatment records is not only illegal, it harms the very children this system is supposed to help," said Eric Thompson, lead attorney on the *Jeannine B.* case for Children's Rights, a national advocacy organization for children. "Such practices undermine the court's ability to protect children and jeopardize federal funding for the

Bureau of Milwaukee Child Welfare's foster care services."

A federal audit of state child welfare systems, due to start next month, will be conducted by the Department of Health and Human Services, now headed by the former governor of Wisconsin, Tommy Thompson.

"The state is to blame for such flagrant misconduct," stated Micabil Diaz-Martinez, Legal Director at the ACLU of Wisconsin Foundation. "The child welfare system provides so little oversight, support and resources to its contract agencies that they are systematically failing to meet the needs of the children in their care. We are asking for a court appointed investigator to investigate the alleged fraud and report back to the court within three weeks."

BACKGROUND ON THE JEANINE B. LAWSUIT

May 1993: *Jeanine B. v. Tommy G. Thompson* lawsuit filed on behalf of all children in Milwaukee foster care.

January 1998: The state took over the child welfare system in response to the lawsuit and is now directly responsible for providing these children with appropriate placement, care, permanency and other necessary services, and protecting them from harm while in state custody.

June 1999: A supplemental complaint was filed charging that despite years of planning and a year and a half of implementation by the Wisconsin Department of Health and Family Services (DHFS), children in the Milwaukee foster care system were worse off than before the state takeover. The June complaint described a system overwhelmed and understaffed and rife with systemic violations of children's rights:

- The number of Milwaukee children in foster care had risen 20% in the last year - from 5,678 to 6,850 - and caseloads jumped to as many as 70 children per caseworker, more than three times the national standard.
- Overwhelmed and untrained social workers failed to visit and monitor children in foster homes, with often more than a year between visits.
- Foster parents had to fight to get even basic services or support from the system and many were quitting in frustration.
- With too few licensed foster homes, children were put into unlicensed homes or, when no homes were available, into emergency children's shelters.

Children's Rights works throughout the United States in partnership with national and local experts, advocates and government officials to document the needs of children in the care of child welfare systems. Children's Rights helps develop realistic solutions and, where necessary, uses the power of litigation to ensure that reform takes place.

The ACLU of Wisconsin Foundation, Inc. is the litigation and public education arm of the ACLU's Wisconsin affiliate.

Additional pro-bono co-counsel for the *Jeanine B.* lawsuit are the Minneapolis law firms of Dorsey & Whitney LLP and Gray, Plant, Mooty, Mooty & Bennett, P.A.

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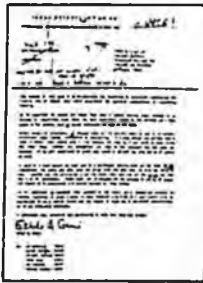
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Senator Bettye Davis

Senate Bill 8

Memo from Texas Dept. of Human Services

DPRS Memorandum to CPS Program Directors and Supervisors, May 31, 1990



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TEXAS DEPARTMENT OF HUMAN SERVICES

Alternations, Backdating and Reconstruction of Case Records

TO: CPS Program Directors
and
Supervisors

FROM: Ethel B. Crear
Regional Director
Protective Services for
Families and Children
Arlington 012-5

May 31, 1990

The purpose of this memo is to re-emphasize the importance of accurately maintaining CPS records and to ensure that staff understand the possible consequences of falsifying records.

It is important to remind all staff that once a family service plan, whether in an In-Home or Substitute Care case, has been completed, signed by the parents and a copy given to the parents that NO change whatsoever be made on the plan.

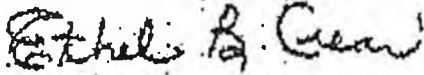
There should be absolutely NO changes made to the service plans by use of white-out, correction tape, adding information or backdating. If a case worker has written down a date in error, they should draw a line through the date so it can still be read, write the other date, initial the correction and note on the document why the date was changed. It is not acceptable to write over dates or scratch the date out so it cannot be read.

If part of a case record has been lost or a particular service plan was not done, DO NOT reconstruct the plans and back date the plans with the date that the plan was actually due. Anytime your are developing a service plan, make sure you put the actual day that the plan is developed. Dates must not be changed for the purpose of making it appear the record is in compliance with policy related to time frames.

It is important to remember that whether or not there was a deliberate attempt to falsify, backdate or alter a case, it does indicate alteration of a case record which is considered to be

a public record and may result in legal or personnel consequence, up to one including dismissal.

I appreciate your attention and cooperation on this very important matter.



Ethel B. Greer

cc: Jim Linneman : 012-5
Dorita Burdick : 012-5
Barbara Johnson : 012-5
Doris Long : 012-5
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