

SB

8

23-LS0126D  
Luckhaupt  
4/29/03

CS FOR SENATE BILL NO. 8( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR DAVIS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to tampering with public records."

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

3 \* Section 1. AS 11.56.815(a) is amended to read:

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

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

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

# ALASKA STATE LEGISLATURE

Senate  
Health, Education &  
Social Services  
Committee

Senate  
Labor & Commerce  
Committee

Senate  
State Affairs  
Committee



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**SENATOR BETTYE DAVIS**

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## Memorandum

To: Senator Ralph Seekins, Chair  
Senate Judiciary Committee

From: Senator Bettye Davis

Date: April 4, 2003

RE: Request for Hearing, SB 8

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I respectfully request a hearing for Senate Bill 8.

I have attached the following:

- Current version of the bill
- Sponsor Statement
- Sectional Analysis
- Background material

# Alaska State Legislature

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## Senator Bettye Davis

Senate Bill 8

" An Act relating to tampering with public records."

### Sponsor Statement

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*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 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, our children. The mere fact that these children 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.*

SENATE BILL NO. 8

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATOR DAVIS

Introduced: 1/21/03

Referred: Health, Education and Social Services, Judiciary

A BILL

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8 (2) AS 11.56.820(a)(1) or (2) and the public record relates to a  
9 child under 18 years of age in the care or custody of the state.

## 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) and the public record relates to a child under 18 years of age in the care or custody of the state.

(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.

**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

### Sectional Analysis Senate Bill 8

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**Section 1.** Amends the crime of tampering with public records in the first degree<sup>1</sup> 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.

# 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 records." BRU Criminal Division  
Sponsor Senator Davis Component All  
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          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**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) |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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 Daughhete for Gregg D. Renkes, Attorney General Date 3/4/2003  
Agency: Department of Law

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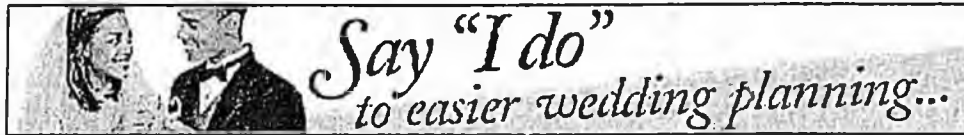
## Senator Bettye Davis

### Senate Bill 8

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## Background Materials

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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

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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](mailto:krueger@sptimes.com) or by calling (727) 893-8232.

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## A Critical Look At the Child Welfare System Falsification of Records



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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

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### 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 Sims is beaten for three months in a relative's home in Lauderhill. 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 Towey.[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."<sup>[9]</sup>

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.<sup>[10]</sup>

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.<sup>[11]</sup>

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.<sup>[12]</sup>

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 lying 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 these previous reports, agency workers secretly

destroyed them, he said.

"Documents were being altered, shredded," testified Charlotte Kav, 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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## Title 47. Welfare, Social Services and Institutions

(▶) areas covered by SB 55. **Bold** represent areas not covered by SB 55 dealing with children under 18.

- 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