

LEG. FINANCE - BILLS 1985 - 1986 2326

HB 88 2326

COMMITTEE REPORT  
HOUSE

(11)

FURTHER:

4/24/85

Date: 5-2-85

The Committee on FINANCE has had HB 88

"An Act relating to the protection of children; and amending Rules 504, 505, and 506, Alaska Rules of Evidence, and Rule 6(e), Alaska Rules of Criminal Procedures.

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 88 (Fin)  same title  
 new title  
 and recommends DO PASS
- AND attaches a "Letter of Intent"  New Fiscal Note  
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]

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[Signature]

CHAIRMAN

COMMITTEE REPORT  
HOUSE

(11)

FURTHER:

4/24/85

Date: 5-3-85

The Committee on FINANCE has had HB 88

"An Act relating to the protection of children; and amending Rules 504, 505, and 506, Alaska Rules of Evidence, and Rule 6(r), Alaska Rules of Criminal Procedures.

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HR 88 (Fin)  same title  
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 and recommends DO PASS
- AND attaches a "Letter of Intent"  <sup>See 5-3-85</sup> New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING

DO PASS

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MEMBERS HAVING

OTHER RECOMMENDATIONS:

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[Signature]  
 CHAIRMAN

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 88 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the protection of children,  
7 family members, and dependent adults; and providing  
8 for an effective date."

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

10 \* Section 1. AS 11.61.125(a) is amended to read:

11 (a) A person commits the crime of distribution of child pornog-  
12 raphy if the person brings or causes to be brought into the state for  
13 [SALE OR] distribution, or in the state distributes, or in the state  
14 possesses, prepares, publishes, or prints with intent to distribute,  
15 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-  
16 ial that visually depicts conduct described in [UNDER] AS 11.41.-  
17 455(a), knowing that the production of the material involved the use  
18 of a child under 18 years of age who engaged in the conduct.

19 \* Sec. 2. AS 11.61.125 is amended by adding a new subsection to read:

20 (d) In this section, "distribution" includes delivering, sell-  
21 ing, renting, leasing, lending, giving, circulating, exhibiting,  
22 presenting, providing, and exchanging, whether or not for monetary or  
23 other consideration.

24 \* Sec. 3. AS 12.10.020(c) is amended to read:

25 (c) Even if the general time limitation has expired, a prose-  
26 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,  
27 former AS 11.41.430, or former AS 11.51.130(a)(4), for an offense  
28 committed against a person under the age of 16 may be commenced within  
29 one year after the crime is reported to a peace officer or the person

1 reaches the age of 16, whichever occurs first. This subsection does  
2 not extend the period of limitation by more than five years.

3 \* Sec. 4. AS 12.45.045(a) is amended to read:

4 Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR  
5 SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a)  
6 In prosecutions for the crimes [CRIME] of sexual assault in any de-  
7 gree, sexual abuse of a minor in any degree, or unlawful exploitation  
8 of a minor, or an attempt to commit any of these crimes [SEXUAL AS-  
9 SAULT IN ANY DEGREE], evidence of the complaining witness' previous  
10 sexual conduct may [SHALL] not be admitted nor may reference be made  
11 to it in the presence of the jury except as provided in this section.  
12 When the defendant seeks to admit the evidence for any purpose, the  
13 defendant shall [MAY] apply for an order of the court at any time  
14 before or during the trial or preliminary hearing. After the applica-  
15 tion is made, the court shall conduct a hearing in camera to determine  
16 the admissibility of the evidence. If the court finds that evidence  
17 offered by the defendant regarding the sexual conduct of the complain-  
18 ing witness is relevant, and that the probative value of the evidence  
19 offered is not outweighed by the probability that its admission will  
20 create undue prejudice, confusion of the issues, or unwarranted inva-  
21 sion of the privacy of the complaining witness, the court shall make  
22 an order stating what evidence may be introduced and the nature of the  
23 questions that may [WHICH SHALL] be permitted. The defendant may then  
24 offer evidence under the order of the court.

25 \* Sec. 5. AS 25.35.010(a) is repealed and reenacted to read:

26 (a) A person who is subjected to domestic violence may petition  
27 a superior court for injunctive relief restraining the infliction of  
28 further domestic violence against the petitioner by the respondent.  
29 The court may appoint a guardian ad litem or attorney to represent a

1 minor who is subject to this chapter in the same manner as an attorney  
2 may be appointed under AS 25.24.310.

3 \* Sec. 6. AS 25.35.060 is amended to read:

4 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic vio-  
5 lence" means a crime under AS 11.41 when the victim is a spouse or a  
6 former spouse of the respondent; a parent, grandparent, child, or  
7 grandchild of the respondent; [,] a member of the social unit composed  
8 [COMPRISED] of those living together in the same dwelling as the  
9 respondent; [,] or a person who is not a spouse or former spouse of  
10 the respondent but who previously lived in a spousal relationship with  
11 the respondent.

12 \* Sec. 7. AS 47.10.010(a) is amended to read:

13 (a) Proceedings relating to a minor under 18 years of age resid-  
14 ing or found in the state are governed by this chapter, except as  
15 otherwise provided in this chapter, when the court finds the minor

16 (1) to be a delinquent minor as a result of violating a  
17 criminal law of the state or of a municipality of the state; or

18 (2) to be a child in need of aid as a result of

19 (A) the child being habitually absent from home or  
20 refusing to accept available care, or having no parent, guardian,  
21 custodian or relative caring or willing to provide care, includ-  
22 ing physical abandonment by

23 (i) both parents,

24 (ii) the surviving parent, or

25 (iii) one parent if the other parent's rights and  
26 responsibilities have been terminated under AS 47.10.080 or  
27 voluntarily relinquished;

28 (B) the child being in need of medical treatment to  
29 cure, alleviate, or prevent substantial physical harm, or in need

1 of treatment for mental harm as evidenced by failure to thrive,  
2 severe anxiety, depression, withdrawal, or untoward aggressive  
3 behavior or hostility toward others, and the child's parent,  
4 guardian, or custodian has knowingly failed [PARENTS ARE UNWILL-  
5 ING] to provide the [MEDICAL] treatment;

6 (C) the child having suffered substantial physical  
7 harm or if there is an imminent and substantial risk that the  
8 child will suffer such harm as a result of the actions done by or  
9 conditions created by the child's parent, guardian or custodian  
10 or the failure of the parent, guardian or custodian adequately to  
11 supervise the child;

12 (D) the child having been sexually abused either by  
13 the child's parent, guardian or custodian, or as a result of  
14 conditions created by the child's parent, guardian or custodian,  
15 or by the failure of the parent, guardian or custodian adequately  
16 to supervise the child;

17 (E) the child committing delinquent acts as a result  
18 of pressure, guidance, or approval from the child's parents,  
19 guardian or custodian;

20 (F) the child having suffered substantial physical  
21 abuse or neglect as a result of conditions created by the child's  
22 parent, guardian or custodian.

23 \* Sec. 8. AS 47.10.142(a) is repealed and reenacted to read:

24 (a) The Department of Health and Social Services may take emer-  
25 gency custody of a minor upon discovering any of the following circum-  
26 stances:

27 (1) the minor has been abandoned;

28 (2) the minor has been grossly neglected by the minor's  
29 parents or guardian as "neglect" is defined in AS 47.17.070(5), and

1 the department determines that immediate removal from the minor's  
2 surroundings is necessary to protect the minor's life or provide  
3 immediate necessary medical attention;

4 (3) the minor has been subjected to child abuse or neglect  
5 by a person responsible for the minor's welfare, as "child abuse or  
6 neglect" is defined in AS 47.17.070(1), and the department determines  
7 that immediate removal from the minor's surroundings is necessary to  
8 protect the minor's life or that immediate medical attention is  
9 necessary; or

10 (4) the minor has been sexually abused under circumstances  
11 listed in AS 47.10.010(a)(2)(D).

12 \* Sec. 9. AS 47.10.142(c) is amended to read:

13 (c) When a child is taken into custody under (a) or (b) of this  
14 section, the department shall immediately, and in no event more than  
15 12 hours later unless prevented by lack of communication facilities,  
16 notify the parents or the person or persons having custody of the  
17 child. If the department determines that continued custody is neces-  
18 sary to protect the child, the department shall notify the court of  
19 the emergency custody by filing, within 12 hours after custody was  
20 assumed [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-  
21 tion alleging that the child is a child in need of aid.

22 \* Sec. 10. AS 47.17.010 is amended to read:

23 Sec. 47.17.010. PURPOSE. In order to protect children whose  
24 health and well-being may be adversely affected through the inflic-  
25 tion, by other than accidental means, of harm through child [PHYSICAL]  
26 abuse or neglect [OR SEXUAL ABUSE OR SEXUAL EXPLOITATION,] the  
27 legislature requires the reporting of these cases by practitioners of  
28 the healing arts and others to the appropriate public authorities. It  
29 is the intent of the legislature that, as a result of these reports,

1 protective services will be made available in an effort to prevent  
2 further harm to the child, to safeguard and enhance the general well-  
3 being of the children in this state, and to preserve family life  
4 whenever preserving it is in the best interests of the child [POS-  
5 SIBLE].

6 \* Sec. 11. AS 47.17.020(a) is amended to read:

7 (a) The following persons who, in the performance of their  
8 occupational [PROFESSIONAL] duties, have cause to believe that a child  
9 has suffered harm as a result of child abuse or neglect shall  
10 immediately report the harm to the nearest office of the department:

11 (1) practitioners of the healing arts;

12 (2) school teachers and school administrative staff members  
13 of public and private schools;

14 (3) social workers;

15 (4) peace officers, and officers of the Department of  
16 Corrections;

17 (5) administrative officers of institutions;

18 (6) child [LICENSED DAY] care providers [AND PAID STAFF];

19 (7) paid employees of domestic violence and sexual assault  
20 programs, and crisis intervention and prevention programs as defined  
21 in AS 18.66.900 [LICENSED FOSTER CARE PROVIDERS].

22 \* Sec. 12. AS 47.17.020(b) is amended to read:

23 (b) This section does not prohibit the named persons from  
24 reporting cases that [WHICH] have come to their attention in their  
25 nonoccupational [NONPROFESSIONAL] capacities, nor does it prohibit any  
26 other person from reporting a child's harm that [WHICH] the person has  
27 cause to believe is a result of child abuse or neglect. These reports  
28 shall be made to the nearest office of the department.

29 \* Sec. 13. AS 47.17.020 is amended by adding a new subsection to read:

1 (d) This section does not require a religious healing practi-  
2 tioner to report as neglect of a child the failure to provide medical  
3 attention to the child if the child is provided treatment solely by  
4 spiritual means through prayer in accordance with the tenets and  
5 practices of a recognized church or religious denomination by an  
6 accredited practitioner of the church or denomination.

7 \* Sec. 14. AS 47.17 is amended by adding a new section to read:

8 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person  
9 who, in the course of processing or producing visual or printed  
10 matter, either privately or commercially, has reason to believe that  
11 the matter visually depicts a child engaged in conduct described in  
12 AS 11.41.455(a) shall promptly report this to the nearest law enforce-  
13 ment agency.

14 \* Sec. 15. AS 47.17.064 is repealed and reenacted to read:

15 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. (a) The department or  
16 a practitioner of the healing arts may, without the permission of the  
17 parents, guardian, or custodian, take the following actions with  
18 regard to a child believed to have suffered physical harm as a result  
19 of child abuse or neglect:

20 (1) take or have taken photographs of the areas of trauma  
21 visible on the child; and

22 (2) if medically indicated, have a radiological examination  
23 of the child performed by a person who is licensed to administer a  
24 radiological examination.

25 (b) The department or a practitioner of the healing arts shall  
26 notify the parents, guardian, or custodian of a child as soon as  
27 possible after taking action under (a) of this section with regard to  
28 the child.

29 \* Sec. 16. AS 47.17.068 is repealed and reenacted to read:

1           Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who  
2 knowingly fails or refuses to report as required under AS 47.17.020 or  
3 47.17.023 is guilty of a class B misdemeanor.

4 \* Sec. 17. AS 47.17 is amended by adding a new section to read:

5           Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) A court may enjoin  
6 or limit a person from contact with a child if the attorney general  
7 establishes by a preponderance of the evidence that the person

8                   (1) has sexually abused a child;

9                   (2) has physically abused a child; or

10                   (3) has engaged in conduct that constitutes a clear and  
11 present danger to the mental, emotional, or physical welfare of a  
12 child.

13           (b) This section does not limit the authority of the attorney  
14 general or the court to act to protect a child.

15 \* Sec. 18. AS 47.17.070(6) is amended to read:

16           (6) "practitioner of the healing arts" includes chiroprac-  
17 tors, dental hygienists, dentists, health aides, nurses, nurse practi-  
18 tioners, optometrists, osteopaths, physical therapists, physicians,  
19 physician's assistants, psychiatrists, psychologists, psychological  
20 associates, religious healing practitioners, and surgeons;

21 \* Sec. 19. AS 47.17.070 is amended by adding new paragraphs to read:

22           (8) "child care provider" means an adult individual, or an  
23 employee of an organization, who provides care and supervision to a  
24 child for compensation;

25           (9) "organization" means a group or entity that provides  
26 care and supervision for compensation to a child not related to the  
27 caregiver, and includes a child care facility, pre-elementary school,  
28 head start center, child foster home, residential child care facility,  
29 recreation program, children's camp, and children's club;

1 (10) "person responsible for the child's welfare" means the  
2 child's parent, guardian, foster parent, a person responsible for the  
3 child's care at the time of the alleged child abuse or neglect, or a  
4 person responsible for the child's welfare in a public or private  
5 residential agency or institution.

6 \* Sec. 20. AS 47.35.070 is amended to read:

7 Sec. 47.35.070. VIOLATIONS. A person who violates a provision  
8 of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted  
9 under this chapter [AS 47.35.010 - 47.35.100] is guilty of a class B  
10 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE  
11 THAN \$200].

12 \* Sec. 21. AS 47.35.070 is amended by adding a new subsection to read:

13 (b) The department may by regulation devise a system of civil  
14 enforcement. The system may employ civil penalties not to exceed \$200  
15 for each day during which one or more violations of a licensing stat-  
16 ute or licensing regulation occurs. The imposition of a civil penalty  
17 does not prevent prosecution and sentence for a criminal offense.

18 \* Sec. 22. Section 5 of this Act takes effect September 30, 1985.  
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SUMMARY OF FISCAL NOTES FOR CS HB 88 (FINANCE)

<u>Agency</u>	<u>Original Request</u>	<u>HFC Figure</u>
DHSS	\$1992.7	\$1582.1
Law	\$1160.6 gen. funds 145.2 IARs	\$ 515.8 gen. funds 108.9 IARs
Public Defender	\$ 437.2	\$ 317.4
Public Advocate	\$ 296.1	\$ 218.3
Dom. Vio. Council	\$ 200.0	\$ 20.0
Court System	\$ 145.9	\$ 51.3
Troopers	\$ 0	\$ 0
TOTALS	\$4232.5 gen. funds 145.2 IARs	\$2704.9 gen. funds 108.9 IARs

SUMMARY OF H.F.C. REDUCTIONS TO CS HB 88 (FIN) FISCAL NOTES

1. DHSS

Personal services is funded for 10 months instead of 12, and all other lines are reduced by a maximum of 25%.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	1360.0	1133.0
Travel	122.2	91.6
Contractual	404.3	303.2
Supplies	19.0	14.3
Equipment	87.2	40.0
Total	1992.7	1582.0
Full Time	31.0	31.0
Part Time	8.0	8.0

2. Law

The following positions were eliminated or changed: 2 part time legal secretaries for the civil sections in Bethel and Fairbanks were eliminated. Prosecution reductions are as follows: one attorney IV in Anchorage, one secretary in Anchorage and the other attorney IV in Anchorage was reduced to an attorney II; one paralegal in Kenai and one attorney IV reduced to an attorney II in Kenai; one attorney in Fairbanks and the legal secretary in Fairbanks was reduced to part time; one paralegal in Kotzebue; one attorney III and one secretary in Barrow; one attorney III in Juneau; and one paralegal in Ketchikan. Also adjusted personal services as follows: two attorneys in the civil section are only partially funded with interagency receipts, the rest of their funding is from the general fund.

Miscellaneous other reductions taken as shown on the chart.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	938.2	441.0
Travel	77.5	42.5
Contractual	144.6	92.2
Supplies	70.5	30.0
Equipment	75.0	19.0
Total	1305.8	624.7
General Fund	1160.6	515.8
IARs	145.2	108.9
Full Time	19.0	9.0
Part Time	3.0	2.0

3. Public Defender

Eliminated one paralegal position in Palmer. Funded all remaining positions for 10 months. Took miscellaneous cuts in other lines.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	347.7	252.9
Travel	30.0	20.0
Contractual	43.5	36.5
Commodities	6.5	4.5
Equipment	9.5	3.5
Total	437.2	317.4
Full Time	6.0	5.0

#### 4. Public Advocate

Positions funded at 10 months instead of 12. Miscellaneous reductions taken in other lines.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	155.1	129.3
Travel	15.0	0
Contractual	100.0	75.0
Supplies	2.0	0
Equipment	24.0	14.0
Total	296.1	218.3
Full Time	4.0	4.0

#### 5. Council on Domestic Violence and Sexual Assault

No additional funds were provided for grants since the FY 86 budget includes a maintenance grant amount of \$4414.9M. Instead, \$20,000 is provided to upgrade the existing data clerk to a research analyst. It is important that program data be analyzed in order for the legislature to adequately judge funding needs from year to year. This funding recommendation comes from the most recent legislative audit of the program.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	0	20.0
Grants	200.0	0
Total	200.0	20.0
Full Time	.5	.5

#### 6. Court System

Funds provided are for 10 months of retired judge time in Anchorage and 10 months for a part time in court clerk in Anchorage. Other funds are eliminated because of cuts in funding to other agencies.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	123.9	51.3
Travel	22.0	0
Total	145.9	51.3
Full Time	3.0	1.0
Part Time	0	1.0

#### 7. Troopers

No funds were requested and no funds were provided.

CSHB 88 (FIN): Personal Services By Community  
(does not include the Court System)

	FBKS	ANCH	PALMER	KETCH	JUNEAU	BETHEL	KOTZEBUE	KENAI	BARROW
WASS	1 clk typ 1 A.A. 1 Acct Clk 2 SW	4 SW 2 DCL 1 A.A. 1 Act clk 2 Clk Typ	-0-	1 SW 1 DCL 1 Clk Typ 1 A.A.	2 SW	-0-	-0-	2 SW	1 clk typ
CIVIL	1 Atty 1 PPT Sec	1 Atty 1 PPT Sec	-0-	-0-	-0-	1 PPT Sec 1 Atty	-0-	-0-	-0-
PROS	1 Atty 1 P/L 1 Sec part-time	1 Atty 1 P/L 1 Sec 1 Atty reduced to Atty II	1 P/L 1 Sec	1 P/L	1 Atty	-0-	1 P/L	reduced to ATTY II 1 Atty 1 P/L	1 Atty 1 Sec
P.D.	1 P/L	1 Atty	1 P/L	-0-	-0-	1 P/L	1 Atty	1 P/L	-0-
P.A.	1 A. Atty 1 Sec	1 A. Atty 1 Clk Typ	-0-	-0-	-0-	-0-	-0-	-0-	-0-

Health & Social services

Addez	1 Clk
Copper Center	1 Clk
Asilla	1 Clk
Alaska	1 Clk
Ordova	1 Clk
Billingham	1 Clk
omer	1 SW and 1 Clk Typ
elta	1 SW and 1 Clk Typ
ilena	1 SW and 1 Clk Typ
onana	1 SS Assoc.
t. Yukon	1 Clk
raig	1 Clk Typ

Original

	T	PFT	PPT
DHSS	39	31	8
LAW	22	19	3
PD	6	6	0
PA	4	4	0
	<u>71</u>	<u>60</u>	<u>11</u>

Reduced

	T	PFT	PPT
DHSS	39	31	8
LAW	11	9	2
PD	5	5	0
PD	4	4	0
	<u>59</u>	<u>49</u>	<u>10</u>

= eliminated in Adams' proposed fiscal notes

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSHB 88 (Fin)  
Title: Protection of children

Sponsor: Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Dept. Health & Social Serv.  
Program Category Affected: Social Services

BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		1133.0				
200 TRAVEL		91.6				
300 CONTRACTUAL		303.2				
400 SUPPLIES		14.3				
500 EQUIPMENT		40.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		1582.1				

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

GENERAL FUND		1582.1				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		1582.1				

POSITIONS:

FULL-TIME		31				
PART-TIME		8				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Personal Services funded for 10 months instead of 12. All other lines funded at a maximum of 75% of original request.

Prepared By: Representative Adams - Chairman Phone: 465-3706  
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Page 1

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSHB 88 (Fin)  
Title: Child Protection

Sponsor: Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Dept. Law  
Program Category Affected: General Government  
BRU, Program or Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		441.0				
200 TRAVEL		42.5				
300 CONTRACTUAL		92.2				
400 SUPPLIES		30.0				
500 EQUIPMENT		19.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>624.7</b>				

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

GENERAL FUND		515.8				
FEDERAL FUNDS						
OTHER		108.9				
<b>TOTAL</b>		<b>624.7</b>				

POSITIONS:

FULL-TIME		9				
PART-TIME		2				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attachment

*RPA*

Prepared By: Representative Adams - Chairman Phone: 465-3706  
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

7/1/84

Fiscal Note Analysis

CS HB 88 (Fin)

PERSONAL SERVICES

Eliminated the following positions: 2 PPT legal secretaries in Bethel and Fairbanks which were requested by the Civil Section. Prosecution reductions are: 1 Attorney IV in Anchorage, one secretary in Anchorage, and reduce the other Attorney IV to an Attorney II; 1 Paralegal in Kenai, and reduce Attorney IV to an Attorney II in Kenai; 1 Attorney in Fairbanks and reduce 1 Legal Secretary in Fairbanks to PPT; one paralegal in Kotzebue; one Attorney III and one Secretary in Barrow; one Attorney III in Juneau; and one paralegal in Ketchikan.

Also Adjusted personal services as follows: In the original fiscal note, two attorneys in the Civil Section were funded with interagency receipts from the Department of Health and Social Services. In this proposal, those attorneys would be funded 75% by interagency receipts and 25% by general funds. The Personal Services line has changed accordingly.

OTHER LINES

Miscellaneous reductions applied.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CS HB 88 (Fin)  
Title: Protection of Children

Sponsor: Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Administration  
Program Category Affected: Due Process

BRU, Program or Subprogram(s) Affected: Public Defender Agency

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		252.9				
200 TRAVEL		20.0				
300 CONTRACTUAL		36.5				
400 SUPPLIES		4.5				
500 EQUIPMENT		3.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>317.4</b>				

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

GENERAL FUND		317.4				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>317.4</b>				

POSITIONS:

FULL-TIME		5				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Eliminated 1 paralegal position in Palmer. Funded all remaining positions for 10 months. Took miscellaneous cuts in other lines.

Prepared By: Representative Adams - Chairman Phone: 465-3706  
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSHB 88 (Fin)  
Title: Protection of Children

Sponsor: Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Administration  
Program Category Affected: Due Process

BRU, Program or Subprogram(s) Affected: Office of Public Advocacy

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		129.3				
200 TRAVEL		-0-				
300 CONTRACTUAL		75.0				
400 SUPPLIES		-0-				
500 EQUIPMENT		14.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>218.3</b>				

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

GENERAL FUND		218.3				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>218.3</b>				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Positions funded for 10 months instead of 12. Miscellaneous cuts applied to other lines.

Prepared By: Representative Adams - Chairman Phone: 465-3706  
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSHB 88 (Fin)  
Title: Protection of Children

Sponsor: Rules/Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Public Safety  
Program Category Affected: \_\_\_\_\_  
Administration of Justice  
BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Council on Domestic Violence and Sexual Assault

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		20.0				
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		-0-				
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		20.0				

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

GENERAL FUND		20.0				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		20.0				

POSITIONS:

FULL-TIME		1/2				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary; The personal services funds are to be used to upgrade the existing data clerk position to a research analyst position. This position will analyze as well as record data. This function is important to proper legislative analysis of the Council and appropriate funding needs.

APA

Prepared By: Representative Adams - Chairman Phone: 465-3706  
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: CSHB 88 (Fin)  
Title: Protection of Children

Sponsor: Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

**FISCAL DETAIL**

Agency Affected: Alaska Court System  
Program Category Affected: \_\_\_\_\_  
Administration of Justice  
BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Trial Courts

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL		51.3				
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>51.3</b>				

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

GENERAL FUND		51.3				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>51.3</b>				

**POSITIONS:**

FULL-TIME		1				
PART-TIME		1				
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

See Attached.

APA

Prepared By: Representative Adams - Chairman  
Division: House Finance Committee

Phone: 465-3706

Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

7/1/84

## Fiscal Note Analysis:

CS HB 88 (Fin)

<u>PERSONAL SERVICES:</u>	<u>SALARY</u>	<u>BENEFITS</u>	<u>TOTAL COST</u>
Pro Tem Superior Court Judge Anchorage 10 Months	15,338	22,363	37,701
In-Court Clerk (Range 23 B) Anchorage 10 Months, Part Time	10,215	3,382	13,597 -----
	<u>TOTAL PERSONAL SERVICES:</u>		\$51,298

Subsequent fiscal years adjusted to reflect six percent inflation.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CS HB 88 (Fin)  
Title: Protection of Children

Sponsor: Rules Committee  
Requestor: House Finance Committee  
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Public Safety  
Program Category Affected: \_\_\_\_\_  
Administration of Justice  
BRU, Program or Subprogram(s) Affected:  
1) Alaska State Troopers &  
2) Administration (Records & Identification)

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-				

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

APA

Prepared By: Representative Adams - Chairman Phone: 465-3706  
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

7/1/84

110 5/3/85  
rec'd 5/6/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: May 1, 1985

REQUEST

Bill/Resolution No.: CS HB No. 88  
 Title: An Act relating to the  
protection of children  
 Sponsor: Judiciary  
 Requestor: \_\_\_\_\_  
 Date of Request: 4/24/85

FISCAL DETAIL

Agency Affected: Health and Social Services  
 Program Category Affected: \_\_\_\_\_  
Social Services  
 BRU, Program or Subprogram(s) Affected:  
Social Services, Youth Services, Juvenile  
Custody BRU's

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		1,360.0	1,414.4	1,471.0	1,529.8	1,591.0
200 TRAVEL		122.2	127.1	132.2	137.5	143.0
300 CONTRACTUAL		377.9	244.6	254.4	264.6	275.2
400 SUPPLIES		19.0	19.8	20.6	21.4	22.2
500 EQUIPMENT		87.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>1,966.3</b>	<b>1,805.9</b>	<b>1,878.2</b>	<b>1,953.3</b>	<b>2,031.4</b>

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

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		1,966.3	1,805.9	1,878.2	1,953.3	2,031.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>1,966.3</b>	<b>1,805.9</b>	<b>1,878.2</b>	<b>1,953.3</b>	<b>2,031.4</b>

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		31	31	31	31	31
PART-TIME		8	8	8	8	8
TEMPORARY		-0-				

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: Michael L. Price  
 Division: Family and Youth Services

Phone: 465-3170  
 Date: 5/1/85

Approved by Commissioner: John R. Pugh  
 Agency: Health and Social Services

Date: 5/2/85 JCC

Distribution (by Agency preparing fiscal note):

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

CSHB NO. 88  
FISCAL NOTE  
PAGE 4

C. Computations

Personal Services		
15 Social Worker, 3 Licensing Specialists and 21 Clerical and Administrative		\$1,360.0 *
Travel		
New Positions	56.0	
Staff Development	66.2	122.2
Contractual		
New Positions	178.3 **	
Increased Legal	138.9	
Staff Development	30.7	
WATS and Zenith Lines	30.0	377.9
Supplies		
New Positions	14.2	
Staff Development	4.8	19.0
Equipment		
First Year Only		87.2
		<u>\$1,966.3</u>

\* In original FY 86 budget submission, personal services request for these positions was lower by \$118.2 due to internal transfer of money. In the latest versions of the operating budget, this funding has been removed.

\*\* In successive years, space will be budgeted by Department of Administration. Inflation calculated at 4%.

D. Economic Impact

The creation of these new positions will have a positive impact on local communities.

E. Impact on Local Governments

There is no quantifiable impact on local governments.

Offered: 4/24/85  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR HOUSE BILL NO. 88 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to the protection of children and  
7 family members; and providing for an effective date."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 11.61.125(a) is amended to read:  
10 (a) A person commits the crime of distribution of child pornog-  
11 raphy if the person brings or causes to be brought into the state for  
12 [SALE OR] distribution, or in the state distributes, or in the state  
13 possesses, prepares, publishes, or prints with intent to distribute,  
14 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-  
15 ial that visually depicts conduct described in [UNDER] AS 11.41.-  
16 455(a), knowing that the production of the material involved the use  
17 of a child under 18 years of age who engaged in the conduct.  
18 \* Sec. 2. AS 11.61.125 is amended by adding a new subsection to read:  
19 (d) In this section, "distribution" includes delivering, sell-  
20 ing, renting, leasing, lending, giving, circulating, exhibiting,  
21 presenting, providing, and exchanging, whether or not for monetary or  
22 other consideration.  
23 \* Sec. 3. AS 12.10.020(c) is amended to read:  
24 (c) Even if the general time limitation has expired, a prose-  
25 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,  
26 former AS 11.41.430, or former AS 11.51.130(a)(4), for an offense  
27 committed against a person under the age of 16 may be commenced within  
28 one year after the crime is reported to a peace officer or the person  
29 reaches the age of 16, whichever occurs first. This subsection does

1 not extend the period of limitation by more than five years.

2 \* Sec. 4. AS 12.45.045(a) is amended to read:

3 Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR  
4 SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a)  
5 In prosecutions for the crimes [CRIME] of sexual assault in any de-  
6 gree, sexual abuse of a minor in any degree, or unlawful exploitation  
7 of a minor, or an attempt to commit any of these crimes [SEXUAL AS-  
8 SAULT IN ANY DEGREE], evidence of the complaining witness' previous  
9 sexual conduct may [SHALL] not be admitted nor may reference be made  
10 to it in the presence of the jury except as provided in this section.  
11 When the defendant seeks to admit the evidence for any purpose, the  
12 defendant shall [MAY] apply for an order of the court at any time  
13 before or during the trial or preliminary hearing. After the applica-  
14 tion is made, the court shall conduct a hearing in camera to determine  
15 the admissibility of the evidence. If the court finds that evidence  
16 offered by the defendant regarding the sexual conduct of the complain-  
17 ing witness is relevant, and that the probative value of the evidence  
18 offered is not outweighed by the probability that its admission will  
19 create undue prejudice, confusion of the issues, or unwarranted inva-  
20 sion of the privacy of the complaining witness, the court shall make  
21 an order stating what evidence may be introduced and the nature of the  
22 questions that may [WHICH SHALL] be permitted. The defendant may then  
23 offer evidence under the order of the court.

24 \* Sec. 5. AS 25.35.010(a) is repealed and reenacted to read:

25 (a) A person who is subjected to domestic violence may petition  
26 a superior court for injunctive relief restraining the infliction of  
27 further domestic violence against the petitioner by the respondent.  
28 The court may appoint a guardian ad litem or attorney to represent a  
29 minor who is subject to this chapter in the same manner as an attorney

1        may be appointed under AS 25.24.310.

2        \* Sec. 6. AS 25.35.060 is amended to read:

3                Sec. 25.35.060. DEFINITIONS.    n this chapter, "domestic vio-  
4        lence" means a crime under AS 11.41 when the victim is a spouse or a  
5        former spouse of the respondent; a parent, grandparent, child, or  
6        grandchild of the respondent; [,] a member of the social unit composed  
7        [COMPRISED] of those living together in the same dwelling as the  
8        respondent; [,] or a person who is not a spouse or former spouse of  
9        the respondent but who previously lived in a spousal relationship with  
10       the respondent.

11       \* Sec. 7. AS 47.10.010(a) is amended to read:

12                (a) Proceedings relating to a minor under 18 years of age resid-  
13        ing or found in the state are governed by this chapter, except as  
14        otherwise provided in this chapter, when the court finds the minor

15                        (1) to be a delinquent minor as a result of violating a  
16        criminal law of the state or of a municipality of the state; or

17                        (2) to be a child in need of aid as a result of

18                                (A) the child being habitually absent from home or  
19        refusing to accept available care, or having no parent, guardian,  
20        custodian or relative caring or willing to provide care, includ-  
21        ing physical abandonment by

22                                        (i) both parents,

23                                        (ii) the surviving parent, or

24                                        (iii) one parent if the other parent's rights and  
25        responsibilities have been terminated under AS 47.10.080 or  
26        voluntarily relinquished;

27                                (B) the child being in need of medical treatment to  
28        cure, alleviate, or prevent substantial physical harm, or in need  
29        of treatment for mental harm as evidenced by failure to thrive,

1 severe anxiety, depression, withdrawal, or untoward aggressive  
2 behavior or hostility toward others, and the child's parent,  
3 guardian, or custodian has knowingly failed [PARENTS ARE UNWILL-  
4 ING] to provide the [MEDICAL] treatment;

5 (C) the child having suffered substantial physical  
6 harm or if there is an imminent and substantial risk that the  
7 child will suffer such harm as a result of the actions done by or  
8 conditions created by the child's parent, guardian or custodian  
9 or the failure of the parent, guardian or custodian adequately to  
10 supervise the child;

11 (D) the child having been sexually abused either by  
12 the child's parent, guardian or custodian, or as a result of  
13 conditions created by the child's parent, guardian or custodian,  
14 or by the failure of the parent, guardian or custodian adequately  
15 to supervise the child;

16 (E) the child committing delinquent acts as a result  
17 of pressure, guidance, or approval from the child's parents,  
18 guardian or custodian;

19 (F) the child having suffered substantial physical  
20 abuse or neglect as a result of conditions created by the child's  
21 parent, guardian or custodian.

22 \* Sec. 8. AS 47.10.142(a) is repealed and reenacted to read:

23 (a) The Department of Health and Social Services may take emer-  
24 gency custody of a minor upon discovering any of the following circum-  
25 stances:

26 (1) the minor has been abandoned;

27 (2) the minor has been grossly neglected by the minor's  
28 parents or guardian as "neglect" is defined in AS 47.17.070(5), and  
29 the department determines that immediate removal from the minor's

1 surroundings is necessary to protect the minor's life or provide  
2 immediate necessary medical attention;

3 (3) the minor has been abused by a person responsible for  
4 the minor's welfare, as "abuse" is defined in AS 47.17.070(1), and the  
5 department determines that immediate removal from the minor's sur-  
6 roundings is necessary to protect the minor's life or that immediate  
7 medical attention is necessary; or

8 (4) the minor has been sexually abused under circumstances  
9 listed in AS 47.10.010(a)(2)(D).

10 \* Sec. 9. AS 47.10.142(c) is amended to read:

11 (c) When a child is taken into custody under (a) or (b) of this  
12 section, the department shall immediately, and in no event more than  
13 12 hours later unless prevented by lack of communication facilities,  
14 notify the parents or the person or persons having custody of the  
15 child. If the department determines that continued custody is neces-  
16 sary to protect the child, the department shall notify the court of  
17 the emergency custody by filing, within 12 hours after custody was  
18 assumed [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-  
19 tion alleging that the child is a child in need of aid.

20 \* Sec. 10. AS 47.17.010 is amended to read:

21 Sec. 47.17.010. PURPOSE. In order to protect children whose  
22 health and well-being may be adversely affected through the inflic-  
23 tion, by other than accidental means, of harm through physical injury,  
24 [ABUSE OR] neglect, [OR] sexual abuse, or sexual exploitation, the  
25 legislature requires the reporting of these cases by practitioners of  
26 the healing arts and others to the appropriate public authorities. It  
27 is the intent of the legislature that, as a result of these reports,  
28 protective services will be made available in an effort to prevent  
29 further harm to the child, to safeguard and enhance the general well-

1 being of the children in this state, and to preserve family life  
2 whenever preserving it is in the best interests of the child [POS-  
3 SIBLE].

4 \* Sec. 11. AS 47.17.020(a) is amended to read:

5 (a) The following persons who, in the performance of their  
6 occupational [PROFESSIONAL] duties, have cause to believe that a child  
7 has suffered harm as a result of abuse or neglect shall immediately  
8 report the harm to the nearest office of the department:

9 (1) practitioners of the healing arts;

10 (2) school teachers and school administrative staff members  
11 of public and private schools;

12 (3) social workers;

13 (4) peace officers, and officers of the Department of  
14 Corrections;

15 (5) administrative officers of institutions;

16 (6) child [LICENSED DAY] care providers [AND PAID STAFF];

17 (7) paid employees of domestic violence programs, and crisis  
18 intervention and prevention programs as defined in AS 18.66.900  
19 [LICENSED FOSTER CARE PROVIDERS].

20 \* Sec. 12. AS 47.17.020(b) is amended to read:

21 (b) This section does not prohibit the named persons from  
22 reporting cases that [WHICH] have come to their attention in their  
23 nonoccupational [NONPROFESSIONAL] capacities, nor does it prohibit any  
24 other person from reporting a child's harm that [WHICH] the person has  
25 cause to believe is a result of abuse or neglect. These reports shall  
26 be made to the nearest office of the department.

27 \* Sec. 13. AS 47.17.020 is amended by adding a new subsection to read:

28 (d) This section does not require a religious healing practi-  
29 tioner to report as neglect of a child the failure to provide medical

1 attention to the child if the child is provided treatment solely by  
2 spiritual means through prayer in accordance with the tenets and  
3 practices of a recognized church or religious denomination by an  
4 accredited practitioner of the church or denomination.

5 \* Sec. 14. AS 47.17 is amended by adding a new section to read:

6 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person  
7 who, in the course of processing or producing visual or printed  
8 matter, either privately or commercially, has reason to believe that  
9 the matter visually depicts a minor engaged in conduct described in  
10 AS 11.41.455(a) shall promptly report this to the nearest law enforce-  
11 ment agency.

12 \* Sec. 15. AS 47.17.064 is repealed and reenacted to read:

13 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. (a) The department or  
14 a practitioner of the healing arts may, without the permission of the  
15 parents, guardian, or custodian, take the following actions with  
16 regard to a child believed to have suffered physical harm as a result  
17 of abuse or neglect:

18 (1) take or have taken photographs of the areas of trauma  
19 visible on the child; and

20 (2) if medically indicated, have a radiological examination  
21 of the child performed by a person who is licensed to administer a  
22 radiological examination.

23 (b) The department or a practitioner of the healing arts shall  
24 notify the parents, guardian, or custodian of a child as soon as  
25 possible after taking action under (a) of this section with regard to  
26 the child.

27 \* Sec. 16. AS 47.17.068 is repealed and reenacted to read:

28 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who  
29 knowingly fails or refuses to report as required under AS 47.17.020 or

1       47.17.023 is guilty of a class B misdemeanor.

2       \* Sec. 17. AS 47.17 is amended by adding a new section to read:

3               Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) A court may enjoin  
4       or limit a person from contact with a child if the attorney general  
5       establishes by a preponderance of the evidence that the person

6                       (1) has sexually abused a child;

7                       (2) has physically abused a child; or

8                       (3) has engaged in conduct that constitutes a clear and  
9       present danger to the mental, emotional, or physical welfare of a  
10      child.

11               (b) This section does not limit the authority of the attorney  
12      general or the court to act to protect a child.

13      \* Sec. 18. AS 47.17.070(6) is amended to read:

14                       (6) "practitioner of the healing arts" includes chiroprac-  
15      tors, dental hygienists, dentists, health aides, nurses, nurse practi-  
16      tioners, optometrists, osteopaths, physical therapists, physicians,  
17      physician's assistants, psychiatrists, psychologists, psychological  
18      associates, religious healing practitioners, and surgeons;

19      \* Sec. 19. AS 47.17.070 is amended by adding new paragraphs to read:

20                       (8) "child care provider" means an adult individual or an  
21      employee of an organization, who provides care and supervision to a  
22      child for compensation;

23                       (9) "organization" means a group or entity that provides  
24      care and supervision for compensation to a child not related to the  
25      caregiver, and includes a child care facility, pre-elementary school,  
26      head start center, child foster home, residential child care facility,  
27      recreation program, children's camp, and children's club;

28                       (10) "person responsible for the child's welfare" means the  
29      child's parent, guardian, foster parent, a person responsible for the

1 child's care at the time of the alleged abuse or neglect, or a person  
2 responsible for the child's welfare in a public or private residential  
3 agency or institution.

4 \* Sec. 20. AS 47.35.070 is amended to read:

5 Sec. 47.35.070. VIOLATIONS. A person who violates a provision  
6 of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted  
7 under this chapter [AS 47.35.010 - 47.35.100] is guilty of a class B  
8 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE  
9 THAN \$200].

10 \* Sec. 21. AS 47.35.070 is amended by adding a new subsection to read:

11 (b) The department may by regulation devise a system of civil  
12 enforcement. The system may employ civil penalties not to exceed \$200  
13 for each day during which one or more violations of a licensing stat-  
14 ute or licensing regulation occurs. The imposition of a civil penalty  
15 does not prevent prosecution and sentence for a criminal offense.

16 \* Sec. 22. Section 5 of this Act takes effect September 30, 1985.

Offered: 4/10/85  
Referred: Judiciary and  
Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE  
2  
3 CS FOR HOUSE BILL NO. 88 (HESS)  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 FOURTEENTH LEGISLATURE - FIRST SESSION  
6 A BILL  
7 For an Act entitled: "An Act relating to the protection of children; and  
8 amending Rules 504 and 505, Alaska Rules of Evi-  
9 dence."  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
11 \* Section 1. AS 11.51.100 is repealed and reenacted to read:  
12 Sec. 11.51.100. ENDANGERING THE WELFARE OF A MINOR IN THE FIRST  
13 DEGREE. (a) A person responsible for the welfare of a minor under 12  
14 years of age commits the crime of endangering the welfare of a minor  
15 in the first degree if, the person intentionally abandons the minor  
16 under circumstances creating a substantial risk of physical injury to  
17 the minor.  
18 (b) Endangering the welfare of a minor in the first degree is a  
19 class C felony.  
20 \* Sec. 2. AS 11.51 is amended by adding a new section to read:  
21 Sec. 11.51.110. ENDANGERING THE WELFARE OF A MINOR IN THE SECOND  
22 DEGREE. (a) A person responsible for the welfare of a minor under 12  
23 years of age commits the crime of endangering the welfare of a minor  
24 in the second degree if the person with criminal negligence  
25 (1) exposes the minor to circumstances creating a substan-  
26 tial risk of physical injury or sexual abuse; or  
27 (2) exposes the minor to physical injury by failing to  
28 provide the minor with necessary food, care, clothing, shelter, or  
29 medical attention.  
30 (b) Endangering the welfare of a minor in the second degree is a

1 class A misdemeanor.

2 \* Sec. 3. AS 11.51 is amended by adding a new section to read:

3 Sec. 11.51.200. DEFINITION. In this chapter "person responsible  
4 for the welfare of a minor" means the minor's parent, guardian, or  
5 foster parent, a person responsible for the minor's care at the time  
6 the endangering of the welfare of the minor is alleged to have  
7 occurred, or a person responsible for the minor's welfare in a public  
8 or private residential agency or institution.

9 \* Sec. 4. AS 11.61.125(a) is amended to read:

10 (a) A person commits the crime of distribution of child pornog-  
11 raphy if the person brings or causes to be brought into the state for  
12 [SALE OR] distribution, or in the state distributes, or in the state  
13 possesses, prepares, publishes, or prints with intent to distribute,  
14 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-  
15 ial that visually depicts conduct described in [UNDER] AS 11.41.-  
16 455(a), knowing that the production of the material involved the use  
17 of a child under 18 years of age who engaged in the conduct.

18 \* Sec. 5. AS 11.61.125 is amended by adding a new subsection to read:

19 (d) In this section, "distribution" includes delivering, sell-  
20 ing, renting, leasing, lending, giving, circulating, exhibiting,  
21 presenting, providing, and exchanging, whether or not for monetary or  
22 other consideration.

23 \* Sec. 6. AS 12.10.020(c) is amended to read:

24 (c) Even if the general time limitation has expired, a prose-  
25 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,  
26 former AS 11.41.430, or former AS 11.51.130(a)(4), for an offense  
27 committed against a person under the age of 16 may be commenced within  
28 one year after the crime is reported to a peace officer or the person  
29 reaches the age of 16, whichever occurs first. This subsection does

1 not extend the period of limitation by more than five years.

2 \* Sec. 7. AS 12.45.045(a) is amended to read:

3 Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR  
4 SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a)  
5 In prosecutions for the crimes [CRIME] of sexual assault in any de-  
6 gree, sexual abuse of a minor in any degree, or unlawful exploitation  
7 of a minor, or an attempt to commit any of these crimes [SEXUAL AS-  
8 SAULT IN ANY DEGREE], evidence of the complaining witness' previous  
9 sexual conduct may [SHALL] not be admitted nor reference made to it in  
10 the presence of the jury except as provided in this section. When the  
11 defendant seeks to admit the evidence for any purpose, the defendant  
12 shall [MAY] apply for an order of the court at any time before or  
13 during the trial or preliminary hearing. After the application is  
14 made, the court shall conduct a hearing in camera to determine the  
15 admissibility of the evidence. If the court finds that evidence  
16 offered by the defendant regarding the sexual conduct of the complain-  
17 ing witness is relevant, and that the probative value of the evidence  
18 offered is not outweighed by the probability that its admission will  
19 create undue prejudice, confusion of the issues, or unwarranted inva-  
20 sion of the privacy of the complaining witness, the court shall make  
21 an order stating what evidence may be introduced and the nature of the  
22 questions that may [WHICH SHALL] be permitted. The defendant may then  
23 offer evidence under the order of the court.

24 \* Sec. 8. AS 47.10.081(c) is amended to read:

25 (c) The court shall inform the child, the child's parents, [AND]  
26 the attorneys representing the parties, and the guardian ad litem that  
27 the predisposition report will be available to them not less than six  
28 working [10] days before the disposition hearing.

29 \* Sec. 9. AS 47.10.142(a) is repealed and reenacted to read:

1 (a) The Department of Health and Social Services may take emer-  
2 gency custody of a minor upon discovering any of the following circum-  
3 stances:

4 (1) the minor has been abandoned;

5 (2) the minor has been grossly neglected by the minor's  
6 parents or guardian as "neglect" is defined in AS 47.17.070(5), and  
7 the department determines that immediate removal from the minor's  
8 surroundings is necessary to protect the minor's life or provide  
9 immediate necessary medical attention;

10 (3) the minor has been abused by a person responsible for  
11 the minor's welfare, as "abuse" is defined in AS 47.17.070(1), and the  
12 department determines that immediate removal from the minor's  
13 surroundings is necessary to protect the minor's life or that immedi-  
14 ate medical attention is necessary; or

15 (4) the minor has been sexually abused under circumstances  
16 listed in AS 47.10.010(a)(2)(D).

17 \* Sec. 10. AS 47.10.142(c) is amended to read:

18 (c) When a child is taken into custody under (a) or (b) of this  
19 section, the department shall immediately, and in no event more than  
20 12 hours later unless prevented by lack of communication facilities,  
21 notify the parents or the person or persons having custody of the  
22 child. If the department determines that continued custody is neces-  
23 sary to protect the child, the department shall notify the court of  
24 the emergency custody by filing, within 24 hours after custody was  
25 assumed [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-  
26 tion alleging that the child is a child in need of aid.

27 \* Sec. 11. AS 47.10.290 is amended by adding a new paragraph to read:

28 (8) "sexual abuse" means

29 (A) conduct against a child that would constitute a

1 sexual offense under AS 11;

2 (B) the perpetrator's knowingly touching, directly or  
3 through clothing, the genital area, groin, inner thighs, breast,  
4 or buttocks of a child, or causing a child to touch, directly or  
5 through clothing, the genital area, groin, inner thighs, or  
6 buttocks of the perpetrator or another; sexual abuse does not  
7 include reasonable touching in the exercise of normal caretaker  
8 responsibilities for a child or normal caretaker interactions  
9 with a child or a recognized and lawful form of contact that is  
10 reasonably adapted to promoting the physical or mental health of  
11 the child;

12 (C) exposing the genital area, anus, breast, groin, or  
13 buttocks of a child to the perpetrator or another for the sexual  
14 gratification of the child, the perpetrator, or another, or  
15 exposing the genital area, anus, breast, groin or buttocks of the  
16 perpetrator or another to a child for the sexual gratification of  
17 the child, the perpetrator, or another; or

18 (D) statements to a child that express a desire or  
19 intent to have sexual contact or sexual penetration with the  
20 child or encourage the child to have sexual contact or sexual  
21 penetration with the perpetrator or another.

22 \* Sec. 12. AS 47.17.010 is amended to read:

23 Sec. 47.17.010. PURPOSE. In order to protect children whose  
24 health and well-being may be adversely affected through the inflic-  
25 tion, by other than accidental means, of harm through physical injury,  
26 [ABUSE OR] neglect, [OR] sexual abuse, or sexual exploitation, the  
27 legislature requires the reporting of these cases by practitioners of  
28 the healing arts and others to the appropriate public authorities. It  
29 is the intent of the legislature that, as a result of these reports,

1 protective services will be made available in an effort to prevent  
2 further harm to the child, to safeguard and enhance the general well-  
3 being of the children in this state, and to preserve family life  
4 whenever preserving it is in the best interests of the child [POS-  
5 SIBLE].

6 \* Sec. 13. AS 47.17.020 is repealed and reenacted to read:

7 Sec. 47.17.020. REPORTING OF CHILD ABUSE OR NEGLECT. (a) The  
8 following persons are required to report abuse or neglect of a child  
9 as required in (b) and (c) of this section:

- 10 (1) practitioners of the healing arts;
- 11 (2) employees of private and public schools;
- 12 (3) human services providers;
- 13 (4) peace officers, and officers of the Department of  
14 Corrections;
- 15 (5) administrative officers of institutions;
- 16 (6) child care providers;
- 17 (7) court personnel;
- 18 (8) employees of domestic violence programs, sexual assault  
19 programs, or crisis shelters.

20 (b) A person listed in (a) of this section, who in the perfor-  
21 mance of the person's occupational duties has cause to believe that a  
22 child has suffered harm as a result of abuse or neglect by a person  
23 responsible for the child's welfare, shall promptly report the harm to  
24 the nearest office of the department. If the person making a report  
25 of harm under this subsection cannot reasonably contact the nearest  
26 office of the department and immediate action is necessary for the  
27 well-being of the child, the person shall make the report to a peace  
28 officer. The peace officer shall take immediate action to protect the  
29 child and shall, at the earliest opportunity, notify the nearest

1 office of the department.

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

17 (d) This section does not prohibit the named persons from re-  
18 porting cases that have come to their attention in their nonoccupa-  
19 tional capacities, nor does it prohibit any other person from report-  
20 ing a child's harm that the person has cause to believe is a result of  
21 abuse or neglect. These reports shall be made to the nearest office  
22 of the department or to the nearest law enforcement agency in the  
23 manner set out in (b) and (c) of this section.

24 \* Sec. 14. AS 47.17 is amended by adding a new section to read:

25 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person  
26 who, in the course of processing or producing visual or printed  
27 matter, either privately or commercially, has reason to believe that  
28 the matter visually depicts a minor engaged in conduct described in  
29 AS 11.41.455(a) shall promptly report this to the nearest law

1 enforcement agency.

2 \* Sec. 15. AS 47.17.025 is repealed and reenacted to read:

3 Sec. 47.17.025. DUTIES OF PUBLIC AUTHORITIES. (a) After re-  
4 ceiving a report of harm to a child resulting from abuse or neglect by  
5 a person responsible for the child's welfare, a law enforcement agency  
6 shall immediately notify the Department of Health and Social Services  
7 and the Department of Law. The Department of Health and Social Ser-  
8 vices shall investigate the report and, within 72 hours after receiv-  
9 ing the report, shall provide a written report of its investigation to  
10 the Department of Law for review. If after a preliminary investiga-  
11 tion the Department of Health and Social Services determines that the  
12 harm was not caused by a member of the child's family, the department  
13 shall so notify the Department of Law.

14 (b) A report of harm to a child from abuse or neglect required  
15 from the department by this section must include:

16 (1) the names and addresses of the child and the child's  
17 parents or other persons responsible for the child's care, if known;

18 (2) the age and sex of the child;

19 (3) the nature and extent of the harm to the child;

20 (4) the name and age and address of the person known or  
21 believed to be responsible for the harm to the child, if known;

22 (5) information that the department believes may be helpful  
23 in establishing the identity of the person believed to have caused the  
24 harm to the child.

25 \* Sec. 16. AS 47.17.040(b) is amended to read:

26 (b) Investigation reports and reports of harm filed under this  
27 chapter are considered confidential and are not subject to public  
28 inspection and copying under AS 09.25.110 and 09.25.120. However, in  
29 accordance with department regulations, investigation reports may be

1 used by appropriate governmental agencies with child-protection func-  
2 tions, inside and outside the state [ALASKA], in connection with  
3 investigations or civil or criminal [JUDICIAL] proceedings involving  
4 [CHILD] abuse, neglect, or child custody. A person, not acting in  
5 accordance with department regulations, who makes public information  
6 contained in confidential reports is guilty of a class A misdemeanor.

7 \* Sec. 17. AS 47.17.050 is amended to read:

8 Sec. 47.17.050. IMMUNITY. A person who, in good faith, makes a  
9 report under this chapter, or who participates in civil or criminal  
10 [JUDICIAL] proceedings related to the submission of reports under this  
11 chapter, is immune from any civil or criminal liability that [WHICH]  
12 might otherwise be incurred or imposed.

13 \* Sec. 18. AS 47.17.060 is repealed and reenacted to read:

14 Sec. 47.17.060. EVIDENCE NOT PRIVILEGED. In a civil or criminal  
15 proceeding related to a report under this chapter, no privilege is a  
16 ground for excluding evidence regarding a child's harm, or its cause,  
17 except

- 18 (1) the lawyer-client privilege;  
19 (2) the psychotherapist-patient privilege; and  
20 (3) the clergyman privilege.

21 \* Sec. 19. AS 47.17.064 is repealed and reenacted to read:

22 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. The department or a  
23 practitioner of the healing arts may, without the permission of the  
24 parents, guardian, or custodian, take the following actions with  
25 regard to a child believed to have suffered physical harm as a result  
26 of abuse or neglect:

- 27 (1) take or have taken photographs of the areas of trauma  
28 visible on the child; and  
29 (2) if medically indicated, have a radiological examination

1 of the child performed by a person who is licensed to administer a  
2 radiological examination.

3 \* Sec. 20. AS 47.17.068 is repealed and reenacted to read:

4 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who  
5 knowingly fails or refuses to report as required under AS 47.17.020 or  
6 47.17.023 is guilty of a class B misdemeanor.

7 \* Sec. 21. AS 47.17 is amended by adding a new section to read:

8 Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) The attorney  
9 general may bring an action to enjoin or limit a person from contact  
10 with a child if the person

11 (1) has sexually abused a child;

12 (2) has physically abused a child;

13 (3) has failed without lawful excuse to provide necessary  
14 food, care, clothing, shelter, supervision, or medical attention for a  
15 child entrusted to the care of the person; or

16 (4) otherwise constitutes a substantial danger to the  
17 mental, emotional, or physical welfare of a child.

18 (b) The court may grant an order in the form that is best suited  
19 to protect a child from harm based upon the facts of the case. This  
20 section does not limit the authority of the attorney general or the  
21 court to act to protect a child.

22 \* Sec. 22. AS 47.17.070(1) is amended to read:

23 (1) "[CHILD] abuse [OR NEGLECT]" means nonaccidental [THE]  
24 physical injury [OR NEGLECT], sexual abuse, sexual exploitation, or  
25 maltreatment of a child [UNDER THE AGE OF 18 BY A PERSON WHO IS RE-  
26 SPONSIBLE FOR THE CHILD'S WELFARE] under circumstances that [WHICH]  
27 indicate that the child's health or welfare is harmed or threatened  
28 thereby;

29 \* Sec. 23. AS 47.17.070(6) is amended to read:

1           (6) "practitioner of the healing arts" includes chiroprac-  
2 tors, dental hygienists, dentists, health aides, nurses, nurse practi-  
3 tioners, optometrists, osteopaths, physical therapists, physicians,  
4 physician's assistants, psychiatrists, psychologists, psychological  
5 assistants, religious healing practitioners, and surgeons;

6 \* Sec. 24. AS 47.17.070(7) is repealed and reenacted to read:

7           (7) "sexual exploitation" means

8           (A) permitting, encouraging, inducing, or employing a  
9 child to engage in prostitution or in the promotion of prosti-  
10 tution as set out in AS 11.66.100 - 11.66.150; or

11           (B) engaging in conduct described in AS 11.41.455;

12 \* Sec. 25. AS 47.17.070 is amended by adding new paragraphs to read:

13           (8) "child care provider" means an adult individual, or an  
14 employee of an organization, who provides care and supervision to a  
15 child;

16           (9) "human services provider" includes an individual human  
17 services provider, and an employee of a human services organization,  
18 such as a social service, youth service, mental health, or substance  
19 abuse agency, or a shelter for runaway or homeless youth;

20           (10) "organization" means a group or entity that provides  
21 care and supervision to a child not related to the caregiver, and  
22 includes a child care facility, pre-elementary school, head start  
23 center, child foster home, residential child care facility, recreation  
24 program, children's camp, and children's club;

25           (11) "person responsible for the child's welfare" means the  
26 child's parent, guardian, foster parent, a person responsible for the  
27 child's care at the time of the alleged abuse or neglect, or a person  
28 responsible for the child's welfare in a public or private residential  
29 agency or institution.

1 \* Sec. 26. AS 47.35.070 is amended to read:

2           Sec. 47.35.070. VIOLATIONS. A person who violates a provision  
3 of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted  
4 under this chapter [AS 47.35.010 - 47.35.100] is guilty of a class B  
5 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE  
6 THAN \$200].

7 \* Sec. 27. AS 47.35.070 is amended by adding a new subsection to read:

8           (b) The department may by regulation devise a system of civil  
9 enforcement. The system may employ civil penalties not to exceed \$200  
10 for each day during which one or more violations of a licensing stat-  
11 ute or licensing regulation occurs. The imposition of a civil penalty  
12 does not prevent prosecution and sentence for a criminal offense.

13 \* Sec. 28. AS 47.17.060, as repealed and reenacted in sec. 18 of this  
14 Act, has the effect of changing Rules 504 and 505, Alaska Rules of Evi-  
15 dence, by preventing the application in civil or criminal cases of certain  
16 privileges specified in those rules to evidence obtained through reports  
17 made under AS 47.17.

Introduced: 1/18/85  
Referred: Health, Education & Social  
Services, Judiciary and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 88

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the protection of children; and  
7 amending Rules 504, 505, and 506, Alaska Rules of  
8 Evidence, and Rule 6(r), Alaska Rules of Criminal  
9 Procedure."

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

11 \* Section 1. AS 11.51.100 is amended to read:

12

Sec. 11.51.100. ENDANGERING THE WELFARE OF A MINOR IN THE FIRST

13

DEGREE. (a) A person commits the crime of endangering the welfare of  
14 a minor in the first degree if, being a parent, guardian, or other  
15 person legally charged with the care of a child under 18 [10] years of  
16 age, the person intentionally deserts the child in any place under  
17 circumstances creating a substantial risk of physical injury to the  
18 child.

19

(b) Endangering the welfare of a minor in the first degree is a  
20 class C felony.

21

\* Sec. 2. AS 11.51 is amended by adding a new section to read:

22

Sec. 11.51.110. ENDANGERING THE WELFARE OF A MINOR IN THE SECOND

23

DEGREE. (a) A person commits the crime of endangering the welfare of  
24 a minor in the second degree if, being entrusted with the care of a  
25 child under 18 years of age, the person with criminal negligence

26

(1) exposes the child to circumstances creating a substan-  
27 tial risk of physical injury or sexual abuse; or

28

(2) exposes the child to physical injury by failing to  
29 provide the child with necessary food, care, clothing, shelter, or

1 medical attention.

2 (b) Endangering the welfare of a minor in the second degree is a  
3 class A misdemeanor.

4 \* Sec. 3. AS 11.61.125(a) is amended to read:

5 (a) A person commits the crime of distribution of child pornog-  
6 raphy if the person brings or causes to be brought into the state for  
7 sale or distribution, or in the state distributes, sells, or exhibits  
8 to others for commercial consideration, or possesses, prepares, pub-  
9 lishes, or prints with intent to distribute, sell, or exhibit to  
10 others for commercial consideration, any material that visually de-  
11 picts conduct described under AS 11.41.455(a), knowing that the pro-  
12 duction of the material involved the use of a child under 18 years of  
13 age who engaged in the conduct.

14 \* Sec. 4. AS 12.10.020(c) is amended to read:

15 (c) Even if the general time limitation has expired, a prose-  
16 cution under AS 11.41.410 -- 11.41.460, AS 11.66.110 -- 11.66.130,  
17 former AS 11.41.430, or former AS 11.51.130(a)(4), for an offense  
18 committed against a person under the age of 16 may be commenced within  
19 one year after the crime is reported to a peace officer or the person  
20 reaches the age of 16, whichever occurs first. This subsection does  
21 not extend the period of limitation by more than five years.

22 \* Sec. 5. AS 12.40 is amended by adding a new section to read:

23 Sec. 12.40.055. HEARSAY EVIDENCE IN PROSECUTIONS FOR SEXUAL  
24 OFFENSES. (a) In a prosecution for an offense under AS 11.41.410 --  
25 11.41.460, AS 11.66.110 -- 11.66.130, former AS 11.41.430, or former  
26 AS 11.51.130(a)(4), hearsay evidence of a statement relating to the  
27 offense, not otherwise admissible, made by a child under the age of 16  
28 may be admitted into evidence before the grand jury if

29 (1) the circumstances of the statement indicate its

1 reliability; and  
2 (2) the child  
3 (A) testifies at the grand jury proceeding; or  
4 (B) is unavailable as a witness and there is some  
5 additional evidence to corroborate the statement.  
6 (b) In this section,  
7 (1) "statement" means an oral or written assertion or  
8 nonverbal conduct if the nonverbal conduct is intended as an asser-  
9 tion;  
10 (2) "unavailable" means that the child  
11 (A) has a lack of memory of the subject matter of the  
12 statement being offered;  
13 (B) is unable to testify at the proceeding because of  
14 death or then existing physical or mental illness or infirmity;  
15 (C) is likely to suffer substantial psychological,  
16 emotional, or physical harm if required to testify;  
17 (D) is declared incompetent to testify by the judge;  
18 or  
19 (E) is absent from the proceeding and the prosecution  
20 has been unable, after reasonable efforts, to procure the child's  
21 attendance.

22 \* Sec. 6. AS 12.45.045 is amended to read:

23 Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR  
24 SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a)  
25 In prosecutions for the crimes [CRIME] of sexual assault in any de-  
26 gree, sexual abuse of a minor in any degree, or unlawful exploitation  
27 of a minor, or an attempt to commit any of these crimes [SEXUAL AS-  
28 SAULT IN ANY DEGREE], evidence of the complaining witness' previous  
29 sexual conduct may [SHALL] not be admitted nor reference made to it in

1 the presence of the jury except as provided in this section. When the  
2 defendant seeks to admit the evidence for any purpose, the defendant  
3 may apply for an order of the court at any time before or during the  
4 trial or preliminary hearing. After the application is made, the  
5 court shall conduct a hearing in camera to determine the admissibility  
6 of the evidence. If the court finds that evidence offered by the  
7 defendant regarding the sexual conduct of the complaining witness is  
8 relevant, and that the probative value of the evidence offered is not  
9 outweighed by the probability that its admission will create undue  
10 prejudice, confusion of the issues, or unwarranted invasion of the  
11 privacy of the complaining witness, the court shall make an order  
12 stating what evidence may be introduced and the nature of the ques-  
13 tions which may [SHALL] be permitted. The defendant may then offer  
14 evidence under the order of the court.

15 \* Sec. 7. AS 12.62.035(a) is amended to read:

16 (a) Notwithstanding any other provision of law, an interested  
17 person as defined in (e) of this section may request from the commis-  
18 sion records of all convictions for crimes that might pose a risk to a  
19 child [INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A MINOR AND ANY  
20 SEX CRIMES] of a person who holds or applies for a position in which  
21 the person has or would have supervisory or disciplinary power over a  
22 minor. The commission shall authorize the disclosure of the informa-  
23 tion to the requesting interested person and shall provide a copy of  
24 the information to the person who is the subject of the request.

25 \* Sec. 8. AS 12.62.035(e)(1) is repealed and reenacted to read:

26 (1) "crime that might pose a risk to a child" includes a  
27 violation or attempted violation of present or former Alaska statutes  
28 regarding the offenses now designated as murder, manslaughter, negli-  
29 gent homicide, assault, reckless endangerment, kidnapping, custodial

1 interference, sexual assault, sexual abuse of a minor, unlawful ex-  
2 ploitation of a minor, incest, indecent exposure, robbery, arson,  
3 endangering the welfare of a minor, criminal nonsupport, contributing  
4 to the delinquency of a minor, distribution of child pornography,  
5 promoting prostitution, driving while intoxicated, and felony offenses  
6 involving distribution of controlled substances; it also includes a  
7 violation or attempted violation of the laws of another jurisdiction  
8 if the offense would have been one of the crimes listed in this para-  
9 graph if committed in this state;

10 \* Sec. 9. AS 12.62.035 is amended by adding a new subsection to read:  
11 (f) In addition to the information for which disclosure is  
12 authorized under (a) of this section, the commission may disclose the  
13 existence of any outstanding warrants for the arrest of the person who  
14 is the subject of the request.

15 \* Sec. 10. AS 29.43.110 is amended to read:  
16 Sec. 29.43.110. PENALTY FOR VIOLATION OF CURFEW. The penalty  
17 for violation of AS 29.43.100 -- 29.43.110 is as prescribed by the  
18 curfew ordinance of the city, and a fine so paid must [SHALL] be paid  
19 to the city when the violation takes place in the city. Otherwise the  
20 fine must [SHALL] be paid to the state. However, the penalty may  
21 [SHALL] not exceed a fine of \$300[, OR IMPRISONMENT FOR UP TO 30 DAYS,  
22 OR BOTH].

23 \* Sec. 11. AS 47.10.010(b) is amended to read:  
24 (b) When a minor is accused of violating a traffic statute or  
25 regulation, a traffic ordinance or regulation of an incorporated  
26 municipality, a fish and game statute or regulation under AS 16, a  
27 [OR] parks and recreation facilities statute or regulation under  
28 AS 41.21, or a curfew ordinance of a city under AS 29.43.100 --  
29 29.43.110, excepting a statute the violation of which is a felony, the

1 procedure prescribed in AS 47.10.020 -- 47.10.090 may not be followed,  
2 except that a parent, guardian or legal custodian shall be present at  
3 all proceedings. The minor accused of a traffic offense, a fish and  
4 game statute or regulation violation under AS 16, a [OR] parks and  
5 recreational facilities violation under AS 41.21, or a curfew viola-  
6 tion under AS 29.43.100 -- 29.43.110 must [SHALL] be charged, prose-  
7 cuted, and sentenced in a district court in the same manner as an  
8 adult.

9 \* Sec. 12. AS 47.10.081(c) is amended to read:

10 (c) The court shall inform the child, the child's parents and  
11 the attorneys representing the parties and the guardian ad litem that  
12 the predisposition report will be available to them not less than two  
13 working [10] days before the disposition hearing.

14 \* Sec. 13. AS 47.10.142(a) is amended to read:

15 (a) The Department of Health and Social Services may take emer-  
16 gency custody of a minor upon discovering any of the following circum-  
17 stances:

18 (1) the minor has been abandoned;

19 (2) the minor has been grossly neglected by the minor's  
20 parents or guardian as "neglect" is defined in AS 47.17.070(5), so  
21 that, in the determination of the department, immediate removal from  
22 the minor's surroundings is [, IN THE DETERMINATION OF THE DEPARTMENT,]  
23 necessary to protect the minor's life, or immediate medical attention  
24 is necessary;

25 (3) the minor has been abused, as "abuse" is defined in  
26 AS 47.17.070(1), so that immediate medical attention or immediate  
27 removal from the minor's surroundings is necessary, in the determina-  
28 tion of the department;

29 (4) the minor has been sexually abused under circumstances

1 listed in AS 47.10.010(a)(2)(D).

2 \* Sec. 14. AS 47.10.142(c) is amended to read:

3 (c) When a child is taken into custody under (a) or (b) of this  
4 section, the department shall make reasonable efforts to immediately  
5 [, AND IN NO EVENT MORE THAN 12 HOURS LATER UNLESS PREVENTED BY LACK  
6 OF COMMUNICATION FACILITIES,] notify the parents or the person or  
7 persons having custody of the child of this action. [AND THE COURT OF  
8 THE ACTION AND FILE WITH THE COURT A PETITION ALLEGING THAT THE CHILD  
9 IS A CHILD IN NEED OF AID.] Unless the department determines that  
10 continued custody is not necessary to protect the child, the depart-  
11 ment shall notify the court of the emergency custody by filing, within  
12 24 hours after custody was assumed, excluding weekends or judicial  
13 holidays, a petition alleging that the child is a child in need of  
14 aid.

15 \* Sec. 15. AS 47.10.290 is amended by adding a new paragraph to read:

16 (8) "sexual abuse" means

17 (A) conduct that would constitute a sexual offense  
18 against a child under AS 11;

19 (B) the perpetrator's knowingly touching, directly or  
20 through clothing, the genital area, groin, inner thighs, or  
21 buttocks of a child, or causing a child to touch, directly or  
22 through clothing, the genital area, groin, inner thighs, or  
23 buttocks of the perpetrator or another; sexual abuse does not  
24 include reasonable touching in the exercise of normal caretaker  
25 responsibilities for a child or normal caretaker interactions  
26 with a child or touching performed for the purpose of adminis-  
27 tering a recognized and lawful form of treatment that is rea-  
28 sonably adapted to promoting the physical or mental health of the  
29 child; reasonable perceptions of the child that the touching is

1 sexual in nature are relevant to the determination of whether the  
2 touching is sexual abuse;

3 (C) exposing the genital area, anus, female breast,  
4 groin, or buttocks of a child to the perpetrator or another for  
5 the sexual gratification of the child, the perpetrator, or another,  
6 or exposing the genital area, anus, female breast, groin or  
7 buttocks of the perpetrator or another to a child for the sexual  
8 gratification of the child, the perpetrator, or another; reasonable  
9 perceptions of the child that the conduct is sexual in  
10 nature are relevant to the determination of whether the conduct  
11 is sexual abuse; or

12 (D) verbal statements to a child which express a  
13 desire or intent to have sexual contact with the child or encourage  
14 the child to have sexual contact with the perpetrator or  
15 another.

16 \* Sec. 16. AS 47.17.010 is amended to read:

17 Sec. 47.17.010. PURPOSE. In order to protect children whose  
18 health and well-being may be adversely affected through the infliction,  
19 by other than accidental means, of harm through physical abuse,  
20 mental injury, [OR] neglect, [OR] sexual abuse, or sexual exploitation,  
21 the legislature requires the reporting of these cases by practitioners  
22 of the healing arts and others to the appropriate public  
23 authorities. It is the intent of the legislature that, as a result of  
24 these reports, protective services will be made available in an effort  
25 to prevent further harm to the child, to safeguard and enhance the  
26 general well-being of the children in this state, and to preserve  
27 family life whenever possible.

28 \* Sec. 17. AS 47.17.020(a) is amended to read:

29 (a) The following persons who, in the performance of their

1 [PROFESSIONAL] duties, have cause to believe that a child has suffered  
2 harm as a result of abuse or neglect shall immediately report the harm  
3 to the nearest office of the department:

4 (1) practitioners of the healing arts;

5 (2) employees and volunteers of private and public schools  
6 [SCHOOL TEACHERS AND SCHOOL ADMINISTRATIVE STAFF MEMBERS];

7 (3) human services providers [SOCIAL WORKERS];

8 (4) peace officers, and officers of the Department of  
9 Corrections;

10 (5) administrative officers of institutions;

11 (6) child [LICENSED DAY] care providers [AND PAID STAFF];

12 (7) counselors, including church counselors and therapists,  
13 whether licensed or not;

14 (8) court investigators;

15 (9) employees and volunteers of domestic violence programs  
16 or crisis shelters;

17 (10) clergy when acting as counselor [LICENSED FOSTER CARE  
18 PROVIDERS].

19 \* Sec. 18. AS 47.17 is amended by adding a new section to read:

20 Sec. 47.17.023. REPORTS TO LAW ENFORCEMENT AGENCIES. (a) If a  
21 person listed in AS 47.17.020, in the performance of the person's  
22 duties, has cause to believe that a child under the age of 18 has  
23 suffered harm as a result of physical or mental injury, neglect,  
24 sexual abuse, sexual exploitation, or maltreatment by an individual  
25 not responsible for the child's welfare, such that the child's health  
26 or welfare is harmed or threatened, the person shall immediately  
27 report the harm to the nearest law enforcement agency.

28 (b) A person who, in the course of processing or producing  
29 visual or printed matter, either privately or commercially, has reason

1 to believe that the visual or printed matter submitted for processing  
2 or producing visually depicts a minor engaged in conduct described  
3 under AS 11.41.455(a) shall immediately report this to the nearest law  
4 enforcement agency. The person shall provide the law enforcement  
5 agency with all information known about the origin of the matter and  
6 the person who submitted it.

7 (c) If a person making a report under this section cannot rea-  
8 sonably contact the nearest law enforcement agency, and immediate  
9 action appears necessary for the well-being of the child, the person  
10 shall make the report to the nearest office of the department. The  
11 department shall take immediate action to protect the child and shall,  
12 at the earliest opportunity, notify the nearest law enforcement agen-  
13 cy.

14 \* Sec. 19. AS 47.17.050 is amended to read:

15 Sec. 47.17.050. IMMUNITY. A person who, in good faith, makes a  
16 report under this chapter, or who participates in civil or criminal  
17 [JUDICIAL] proceedings related to the submission of reports under this  
18 chapter, is immune from any civil or criminal liability which might  
19 otherwise be incurred or imposed.

20 \* Sec. 20. AS 47.17.060 is repealed and reenacted to read:

21 Sec. 47.17.060. EVIDENCE NOT PRIVILEGED. In a civil or criminal  
22 proceeding related to a report under this chapter, no privilege is a  
23 ground for excluding evidence regarding a child's harm, or its cause,  
24 except (1) the attorney-client privilege; (2) the psychotherapist-  
25 patient privilege; and (3) the clergyman privilege, if the communica-  
26 tion was made to the clergyman in furtherance of a religious practice  
27 and not for counseling purposes.

28 \* Sec. 21. AS 47.17.068 is amended to read:

29 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person

1 required to file a report of abuse, [OR] neglect, or exploitation  
2 under AS 47.17.020 or AS 47.17.023 who [WILFULLY OR] knowingly fails  
3 or refuses to report as [THE HARM] required [UNDER AS 47.17.020] is  
4 guilty of a class B misdemeanor.

5 \* Sec. 22. AS 47.17 is amended by adding a new section to read:

6 Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) The attorney  
7 general may bring an action to enjoin or limit a person from contact  
8 with a child not related to the person if the person

9 (1) has sexually abused a child;

10 (2) has physically abused a child;

11 (3) has failed without lawful excuse to provide necessary  
12 food, care, clothing, shelter, supervision, or medical attention for a  
13 child entrusted to the care of the person; or

14 (4) otherwise constitutes a substantial danger to the  
15 mental, emotional, or physical welfare of a child.

16 (b) The court may grant an order in whatever form is best suited  
17 to protect children from harm based upon the facts of the case. This  
18 section does not limit the authority of the attorney general or the  
19 court to act to protect children.

20 \* Sec. 23. AS 47.17.070(1) is amended to read:

21 (1) "child abuse or neglect" means the physical injury or  
22 neglect, mental injury, sexual abuse, sexual exploitation, or mal-  
23 treatment of a child under the age of 18 by a person who is responsi-  
24 ble for the child's welfare under circumstances which indicate that  
25 the child's health or welfare is harmed or threatened thereby;

26 \* Sec. 24. AS 47.17.070(6) is amended to read:

27 (6) "practitioner of the healing arts" includes chiroprac-  
28 tors, dentists, health aides, nurses, nurse practitioners, optome-  
29 trists, osteopaths, physical therapists, physicians, physician's

1 assistants, psychiatrists, psychologists, religious healing practi-  
2 tioners, and surgeons;

3 \* Sec. 25. AS 47.17.070 is amended by adding new paragraphs to read:

4 (8) "child care provider" means an adult individual, or an  
5 employee or volunteer of an organization, who provides care and super-  
6 vision to a child not related to the caregiver;

7 (9) "human services provider" includes an individual human  
8 services provider, and an employee or volunteer of a human services  
9 organization, such as a social service, youth service, mental health,  
10 or substance abuse agency, or a shelter for runaway or homeless youth;

11 (10) "mental injury" means an injury to the intellectual or  
12 psychological capacity of a child as evidenced by an observable and  
13 substantial impairment in the child's ability to function within a  
14 normal range of performance and behavior, with due regard to the  
15 child's culture;

16 (11) "organization" means a group or entity that provides  
17 care and supervision to a child not related to the caregiver, and  
18 includes a child care facility, pre-elementary school, head start  
19 center, child foster home, residential child care facility, recreation  
20 program, children's camp, and children's club.

21 \* Sec. 26. AS 47.35.070 is amended to read:

22 Sec. 47.35.070. VIOLATIONS. (a) A person who violates a provi-  
23 sion of AS 47.35 [47.35.010 -- 47.35.100] or a [RULE OR] regulation  
24 adopted under AS 47.35 [47.35.010 -- 47.35.100] is guilty of a class B  
25 misdemeanor[, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE  
26 THAN \$200].

27 (b) The department may by regulation devise a system of civil  
28 enforcement. The system may employ civil penalties not to exceed \$200  
29 for each day during which one or more violations of a licensing

1        statute or licensing regulation occurs. The imposition of a civil  
2        penalty does not prevent prosecution and sentence for a criminal  
3        offense.

4        \* Sec. 27. AS 12.40.050, added by sec. 5 of this Act, has the effect of  
5 changing Rule 6(r), Alaska Rules of Criminal Procedure, by making certain  
6 hearsay evidence admissible in grand jury proceedings for certain sexual  
7 offenses without requiring compelling justification.

8        \* Sec. 28. AS 47.17.060, as repealed and reenacted in sec. 20 of this  
9 Act, has the effect of changing Rules 504, 505, and 506, Alaska Rules of  
10 Evidence, by preventing the application in civil or criminal cases of the  
11 privileges specified in those rules to evidence obtained through reports  
12 made under AS 47.17.

# Fiscal Notes HB 88

I. Department of Law 1160.9 805.8

Eliminate the following positions: 2 PPT legal secretaries in Bethel and Fairbanks which were requested by the Civil Section. 1 Attorney IV in Anchorage, 1 Paralegal in Kenai 1 Attorney in Fairbanks and reduce 1 Legal Secretary in Fairbanks to PPT.

Adjust the fiscal note for the following: In the original fiscal note, two attorneys in the Civil Section were funded with interagency receipts from the Department of Health and Social Services. In this proposal, those attorneys would be funded 75% by interagency receipts and 25 % by general funds. The Personal Services line has changed accordingly.

Personal Services	731.0
Travel	42.5
Contractual	92.2
Supplies	30.0
Equipment	19.0
Total	914.7
General Fund	805.8
I.A.	108.9
PFT	15.0
PPT	2.0

II. Public Defender 437.2 368.0

Eliminate the following positions: 1 Paralegal in ~~Fairbanks~~ Fairbanks.

Personal Services	303.5
Travel	20.0
Contractual	36.5
Commodities	4.5
Equipment	3.5
Total	368.0
General Funds	368.0
PFT	5.0

III. Office of Public Advocacy 296. 244.1

Personal Services	155.1
Contractual	75.0
Equipment	14.0
Total	244.1
General Fund	244.1
PFT	4.0

IV. Department of Health and Social Services      1992.7      1582.1

Personal Services is funded for 10 months as opposed to 12 months  
and all other lines are funded at 75% or less.

Personal Services	1133.0
Travel	91.6
Contractual	303.2
Supplies	14.3
Equipment	40.0
Total	1582.1
General Fund	1582.1
PFT	31.0
PPT	8.0

	WAS	NOW
I. Department of Law	1160.9	805.8
II. Public Defender	437.2	368.0
III. Office of Public Advocacy	296.1	244.1
IV. Health and Social Services	1992.7	1582.1
TOTAL	<u>3886.9</u>	<u>3000.0</u>

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSHB 88  
 Title: "An Act relating to the protection of children."  
 Sponsor: Rules/Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: April 29, 1985

FISCAL DETAIL

Agency Affected: Department of Law  
 Program Category Affected: Gen. Govt. Administration of Justice  
 BRU, Program or Subprogram(s) Affected: Legal Services, Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		938.2	1,125.8	1,182.1	1,241.2	1,303.3
200 TRAVEL		77.5	81.4	85.5	89.8	94.3
300 CONTRACTUAL		144.6	152.0	160.0	168.0	176.0
400 SUPPLIES		70.5	58.9	62.0	65.0	68.0
500 EQUIPMENT		75.0	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>1,305.8</b>	<b>1,418.1</b>	<b>1,489.6</b>	<b>1,564.0</b>	<b>1,641.6</b>

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

GENERAL FUND		1,160.6	1,265.6	1,329.5	1,391.3	1,465.1
FEDERAL FUNDS						
OTHER		145.2	152.5	160.1	168.1	176.5
<b>TOTAL</b>	<b>-0-</b>	<b>1,305.8</b>	<b>1,418.1</b>	<b>1,489.6</b>	<b>1,564.0</b>	<b>1,641.6</b>

POSITIONS:

FULL-TIME		19.0	19.0	19.0	19.0	19.0
PART-TIME		3.0	3.0	3.0	3.0	3.0
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Please see attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 4/30/85  
 Approved by Commissioner: Richard I. Pegues / For  
Norman C. Gorsuch Date: 4/30/85  
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

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

7/1/84

April 30, 1985

As has been the case with other administration of justice and human services agencies, the Department of Law has experienced a dramatic increase in the number of child abuse matters that it handles. The department provides two services that are essential to the state's child protection effort. First, it provides the civil legal services required by the courts in order for the state to remove an abused child from an abusive home environment, including civil enforcement of day care regulations. Second, it prosecutes child abusers in order that society may be protected from these abusers.

Child protection matters, in both the criminal and the civil arenas, are often very difficult to litigate because of the seriousness and sensitivity of child abuse crimes, and because of the age of the victims. The department's proposal to combat the alarming increase in child abuse is designed to turn around that increase. Attached for your consideration are analyses of the efforts the department has already made to provide legal remedies for the child protection problem, including past and current caseload experience. These analyses were prepared at the request of the Senate Finance Committee.

# STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

BILL SHEFFIELD, GOVERNOR

REPLY TO:

OFFICE OF THE CHIEF PROSECUTOR  
POUCH KC  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428

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

April 17, 1985

The Honorable John Sackett  
Co-Chairman, Committee on Finance  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Sackett:

At your request we have compiled statistics for all sexual assault cases handled by the criminal division over the past five fiscal years, and have compiled separate component totals which show the increase in child sexual assault over the last two years.

The figures set out in the table below shows the number of defendants--it does not show the number of separate offenses. In many child sexual assault cases the defendant will be charged with several offenses involving multiple victims and/or multiple incidents, but this is treated as a single case if charged in the same indictment. In reviewing the total number of child sexual assault cases, it should be kept in mind that each case may involve many separate incidents of abuse. Up to five or six separate incidents is not uncommon in a single case. Therefore each trial is a little like putting on multiple trials--one for each offense. As a result these cases are extremely time-consuming and, because of particular considerations that apply to children as victims, are more difficult to handle than cases involving adult victims.

The data we use for tracking sexual assault cases is broken down by cases involving adult victims and cases involving child victims. The first number depicted in the table below shows the total number of the defendants charged with sexual offenses. The number in parentheses is the portion related to child sexual assault. As you can see, the relative percentage of all sexual assault cases that involve children as victims has increased significantly over the last five fiscal years.

ALL SEXUAL ASSAULTS*	FY 80	FY 81	FY 82	FY 83	FY 84
Referred for Prosecution	157 (52)	210 (84)	260 (108)	442 (170)	570 (343)
Accepted for Prosecution	103 (34)	134 (55)	179 (76)	327 (121)	366 (226)
Convictions	63 (22)	83 (29)	134 (54)	202 (86)	230 (130)
Conviction Rate	66% (69%)	69% (69%)	78% (79%)	69% (72%)	72% (76%)

\* Cases with child victims in parentheses.

The next chart compares child sexual assault cases in calendar years 1983 and 1984, broken down by component. The narrative accompanying the criminal division's increment request forms (Form C5), prepared for the governor, showed an average increase in the first half of 1984 of more than 50% over the same period in 1983. The chart below completes the comparison for the entire year. The overall increase between 1983 and 1984 was 72% statewide.

As I understand it, you are also interested in the present allocation of personnel to these cases by component. Consequently, we have included these equivalents in the chart.

Child Sexual Assault Cases Referred For  
Prosecution By Judicial District and Present Staffing Levels

Approximate Positions Presently Assigned

	Number of Defendants	<u>Attorneys</u>	<u>Paralegals</u>	<u>Secretarial</u>
First - 1983	36			
1984	58 (76 total offenses)	1.0	1.0	.5
Second - 1983	16			
1984	44 (55 total offenses)	.75	.5	.25
Third - 1983	111			
1984	228 (361 total offenses)	4.5	2.5	2.0
Fourth - 1983	56			
1984	<u>70</u> (85 total offenses)	<u>1.5</u>	<u>1.0</u>	<u>.75</u>
TOTAL - 1983	219			
1984	395 (577 total offenses)	7.75	5.0	3.5

The most startling conclusion to be drawn from these statistics is that the number of child sexual assaults has now eclipsed the number of sexual assaults on adults, which actually appear to be dropping slightly. Our hope is that the resources in our FY 86 budget request will result in a levelling off of the number of these cases in the near future, similar to the apparent levelling of adult sexual assaults. Our fear, however, is that the problem of child abuse in Alaska is so widespread that the current focus on sexual abuse will disclose problems of similar dimensions in the areas of physical abuse, child neglect, and child exploitation (pornography, prostitution, etc.).

As you can see from the attached graph, the number of child sexual abuse cases has risen dramatically. Recent statistics from July-December, 1984, show that our FY 85 projections for the total number of cases is exactly on target (400 cases projected; 201 actual cases for the first half of FY 85). Although budget decisions will obviously affect the number of cases we can properly handle, such decisions have no effect on the number of cases that are brought to us for our review. That number will continue to rise until certain segments of our society understand that we will deal with child molestation firmly, swiftly, and severely.

The resources devoted by the legislature to adult rape prosecutions a few years ago appear to have made just such an impact. It is too soon for optimism, but the number of adult sexual assaults referred to our offices for prosecution has not risen in the last year and a half, and has stabilized at a little over 200 cases per year. However, we have been forced to divert resources previously devoted to adult sexual assaults into children's cases, and therefore our overall sexual assault program continues to suffer because of the sheer weight of the caseload.

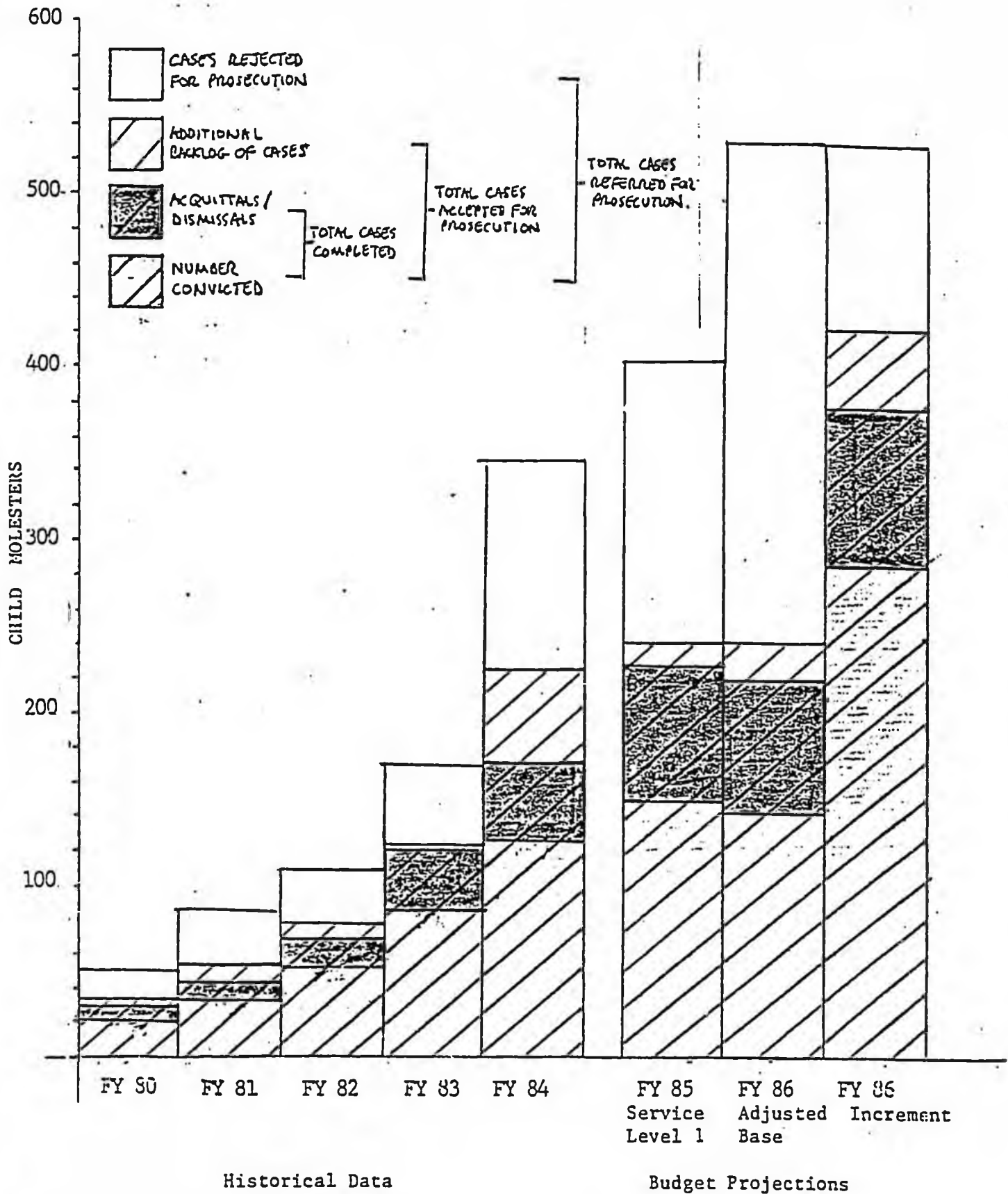
Your continued concern in this area and assistance in obtaining additional resources is greatly appreciated.

Very truly yours ,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By: Dan Hickey

Daniel W. Hickey  
Chief Prosecutor



April 18, 1985

The Honorable John C. Sackett  
Co-Chairman, Senate Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Senator Sackett:

As you have requested, we have prepared statistics for child protection cases handled by the Department of Law's civil division during the past several years. We have also prepared information showing the resources that have and are being applied in the state's effort to handle the problem of child abuse.

Our records indicate that child protection cases remained fairly static during the nineteen-sixties. One attorney, funded under an RSA from the Department of Health and Social Services, was assigned to handle these cases at Anchorage. In 1976 or 1977 a second attorney was assigned at Fairbanks to handle a gradually increasing caseload in Interior and Northern Alaska. This position was also funded under the RSA. After 1977, the child protection caseload began growing at a steeper rate, and the RSA was amended to add a second attorney at Anchorage and one attorney was added at Juneau to handle child protection cases in Southeastern Alaska. This increase took place in August, 1980. Acting on its own, the Department of Law assigned two general fund civil attorneys to its rural district attorney offices at Bethel and Nome to handle general civil matters. About one half of the time of these two positions, or the equivalent of one attorney, was dedicated to child protection cases. This trade of resources, between the civil and criminal divisions, permits criminal division attorneys to handle civil child protection cases at several locations.

In response to further growth in child protection cases, the department reassigned a civil general fund attorney position to Fairbanks. This reassignment took place in October 1981. Between 1982 and 1984 the department also reassigned 1.5 general fund attorney positions at Anchorage and .2 of a general fund attorney position at Juneau to handle what had become a

rapidly growing child protection caseload. There has been no increase in the number of attorneys assigned under the H&SS RSA since August, 1980, because of funding constraints within that department. It is important to note that the total number of general fund attorneys within the Department of Law (those that are not specifically dedicated to other clients' legal needs) has decreased from 34 positions to 31 positions, between FY 82 and FY 85. The attached Table I illustrates the relative level of attorney resources that have been devoted to child protection matters over the past several years.

As demonstrated by Table II, also attached, the department has experienced a sharp increase in the number of child protection cases it handles. The number of cases opened in 1984 totalled 703. This number stood at 595 in 1982. Most disturbing is the number of cases that remained opened at the end of each year. At the end of 1982 this figure was 318. In 1984, the number of backlogged child protection cases had jumped to 443 or a 39% increase over 1982. During the six-month period ending on 12/31/84, the number of cases opened has increased by nearly 30% over the rate experienced in 1984. Child protection cases consist of acts of physical abuse and sexual abuse against children, and the neglect and abandonment of children. An analysis of 1982 data reveals that, in that year, approximately 20% of the cases were the result of child sexual abuse. By 1984, 33% of all child protection cases were caused by sexual abuse.

Each of these forms of child abuse, however, can cause devastating emotional damage, and they oftentimes cause serious physical injury to children. Because of the age of the victims, these cases must be handled with great sensitivity and skill and considerable swiftness to avoid inflicting additional hurt on the victims. The sensitivity, skill and swiftness needed to handle these cases are being steadily eroded away as the attorney caseload increases above acceptable levels.

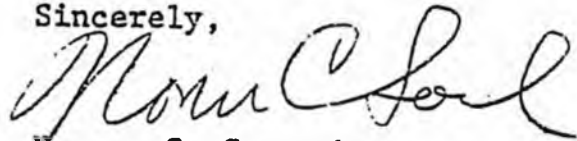
Also, because of the substantial procedural and substantive legal rights provided to families by both federal and state law, these cases are difficult to try and they are very labor intensive. Up to five attorneys may be involved in a single case. These adversarial proceedings can include an assistant attorney general, a guardian ad litem, the mother's attorney, the father's attorney, and occasionally the child's attorney. The legal process required by termination of parental rights trials, coupled with the alarming growth in our caseload backlog, is stretching the department's resources beyond its ability to respond. Delays in our response, even if very short, are viewed as extremely long in the eyes of an abused child.

The Honorable John C. Sackett  
Co-Chairman, Senate Finance Committee

April 18, 1985  
Page 3

Such delays are becoming too frequent and they are taking too long. The civil division has proposed a modest FY 86 budget increase to overcome the child protection case backlog. The requested funding will go far to prevent and correct the erosion of services to abused children provided by the Department of Law.

Sincerely,



Norman C. Gorsuch  
Attorney General

NCG:RIP:dlm

Attachments

TABLE I

Child Protection -- Civil Attorney Resources

1976 (And Prior)

	<u>Law GF</u>	<u>H&amp;SS RSA</u>
Anchorage		1.0
Fairbanks	.5	
Juneau	.3	
Rural	.2	
	<hr/>	<hr/>
	1.0	1.0

1977

	<u>Law GF</u>	<u>H&amp;SS RSA</u>
Anchorage	.3	1.0
Fairbanks	.2	1.0
Juneau	.3	
Rural	.2	
	<hr/>	<hr/>
	1.0	2.0

1980

	<u>Law GF</u>	<u>H&amp;SS RSA</u>
Anchorage		2.0
Fairbanks	.3	1.0
Juneau		1.0
Rural	1.0	
	<hr/>	<hr/>
	1.5	4.0

1981

	<u>Law GF</u>	<u>H&amp;SS RSA</u>
Anchorage	.2	2.0
Fairbanks	1.0	1.0
Juneau		1.0
Rural	1.0	
	<hr/>	<hr/>
	2.2	4.0

1982

	<u>Law GF</u>	<u>H&amp;SS RSA</u>
Anchorage	.5	2.0
Fairbanks	1.0	1.0
Juneau		1.0
Rural	1.0	
	<hr/>	<hr/>
	2.5	4.0

<u>1983</u>	<u>Law GF</u>	<u>H&amp;SS RSA</u>
Anchorage	1.0	2.0
Fairbanks	1.0	1.0
Juneau		1.0
Rural	<u>1.1</u>	<u>1.0</u>
	3.1	4.0
<u>1984</u>	<u>Law GF</u>	<u>H&amp;SS RSA</u>
Anchorage	1.5	2.0
Fairbanks	1.0	1.0
Juneau	.2	1.0
Rural	<u>1.2</u>	<u>1.0</u>
	3.9	4.0
<u>1985</u>	<u>Law GF</u>	<u>H&amp;SS RSA</u>
Anchorage	1.5 / 180.0	2.0 )
Fairbanks	1.0 / 120.0	1.0 ) 423.1
Juneau	.2 / 24.0	1.0 )
Rural	<u>1.2 / 144.0</u>	<u>1.0</u> )
	3.9 / 468.0	4.0 / 423.1 <sup>1</sup>

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<sup>1</sup> H&SS RSA has been underfunded in non-personal services cost categories since FY 81.

TABLE II

Child Protection Caseload Statistics 1978 Through 1984

<u>FY</u>	<u>Cases Opened</u>	<u>Year-end Backlog</u>
1978	268	111
1979	381	165
1980	562	247
1981	527	316
1982	595 <sup>1</sup> 19.9%	318
1983	645	344
1984	703 <sup>1</sup> 32.5%	443
1985 <sup>2</sup>	452 <sup>1</sup> 33.0%	391 (six months)

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<sup>1</sup> Percent sexual abuse cases.

<sup>2</sup> July 1, 1984 through December 31, 1984, part-year figure.

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Approximately 20% of the caseload represents cases in rural areas.

CSHB 88 Fiscal Note  
Line Item/Funding Breakdown

Legal Services - BRU

	<u>GF</u>	<u>IA</u>	<u>Total</u>
100	116.4	121.2	237.6
200	5.0	10.0	15.0
300	9.5	4.0	13.5
400	11.0	7.0	18.0
500	24.0	3.0	27.0
	<hr/>	<hr/>	<hr/>
	165.9	145.2	\$311.1

Prosecution - BRU (All General Fund)

	<u>1st Jud</u>	<u>2nd Jud</u>	<u>3rd Jud</u>	<u>4th Jud</u>	<u>Total</u>
100	85.2	147.1	335.0	133.3	700.6
200	10.0	12.5	30.0	10.0	62.5
300	14.0	34.5	66.1	16.5	131.1
400	7.0	9.5	26.5	9.5	52.5
500	3.0	10.5	24.0	10.5	48.0
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
	119.2	214.1	481.6	179.8	\$994.7

Child Protection - Prosecution

1st Judicial District

Adds: 1 Atty III at Juneau  
1 Paralegal Asst. at Ketchikan

2 PFT 119.2 GF

2nd Judicial District

Adds: 1 Paralegal Asst. at Kotzebue  
1 Atty III at Barrow  
1 Leg. Sec. I at Barrow

3 PFT 214.1 GF

3rd Judicial District

Adds: 1 Paralegal Asst. at Palmer  
1 Leg. Sec. I at Palmer  
1 Atty IV at Kenai  
1 Paralegal Asst. at Kenai  
2 Atty IV's at Anchorage  
1 Paralegal Asst. at Anchorage  
1 Leg. Sec. I at Anchorage

8 PFT 481.6 GF

4th Judicial District

Adds: 1 Atty IV at Fairbanks  
1 Paralegal Asst. at Fairbanks  
1 Leg. Sec. I at Fairbanks

3 PFT 179.8 GF

Subtotal Prosecution 16 PFT 994.7 GF

Child Protection - Legal Services

Legal Services Operations

Adds: 1 Atty IV at Bethel  
1 Part-time Leg. Sec. at Bethel  
1 Atty IV at Anchorage  
1 Part-time Leg. Sec. at Anchorage  
1 Atty IV at Fairbanks  
1 Part-time Leg. Sec. at Fairbanks

3 PFT/3 PPT 311.1

Subtotal Leg. Svcs. = 3 PFT/3 PPT 165.9 GF  
145.2 IAR

Total Child Protection = 19 PFT/3 PPT 1,305.8

1,160.6 GF  
145.2 IAR

6 Criminal Atty's and 3 Civil Atty's  
6 Criminal Paralegal Assts.  
4 Criminal Leg. Secs, 3 Part-time Civil Leg. Secs.

12/18/84

14:15:24.2

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

DEPARTMENT OF LAW

SCENARIO: 16

COMPONENT #: 036501020100 NAME: FIRST JUDICIAL DISTRICT

BRU NAME: PROSECUTION

PCN	UNAUTH	JOB CLASS TITLE	T	LOCATION NAME	R	B	S	R&S	MOS	ANNUAL	PREMIUM	ANNUAL	PERS. SVCS	GEN. FUND
PCN			S		C	U			BUDG	SALARY	PAY	BENEFITS	PER POSITN	AMOUNT

N015	N/A	ATTORNEY III		F JUNEAU					A X A 22A	10	39000	0	10890	49890.24	49890.24
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## \*\*\*\* JUSTIFICATION:

THIS ATTORNEY III POSITION IN JUNEAU IS PART OF THE DEPARTMENT'S COORDINATED RESPONSE TO CHILD SEXUAL ABUSE CASES IN THE STATE. PROSECUTION OF THESE CASES ARE EXTREMELY LABOR INTENSIVE REQUIRING A GREATER DEGREE OF PREPARATION, ADDRESSING THE LEGAL COMPLEXITIES ASSOCIATED WITH THESE OFFENSES, AND SUPERVISING THE COORDINATION OF PARALEGALS, INVESTIGATIVE AND SOCIAL SERVICE AGENCIES. THESE CASES ARE MOST APPROPRIATELY HANDLED THROUGH A VERTICAL PROSECUTION APPROACH - THE ASSIGNMENT OF A SINGLE PROSECUTOR FROM BEGINNING TO END. WITH THIS METHOD THE PROSECUTOR BECOMES TOTALLY FAMILIAR WITH ALL ASPECTS OF THE CASE, ENHANCING THE PROSPECTS OF SUCCESSFUL PROSECUTION AND EASING THE VICTIM'S TRAUMA BY LIMITING THE NUMBER OF DIFFERENT PEOPLE WITH WHOM THE VICTIM INTERACTS DURING THE COURSE OF PROSECUTION.

IN JUNEAU, THE NUMBER OF CHILD SEXUAL ABUSE CASES HANDLED IN THE FIRST HALF OF 1984 ALREADY EXCEEDS THE NUMBER OF THESE CASES HANDLED DURING 1983. THIS LARGE INCREASE NECESSITATES AN ADDITIONAL ATTORNEY POSITION TO RESPOND DIRECTLY TO THE PROBLEM.

TRAVEL COSTS/POSITION	5000.00
CONTRACTUAL COSTS/POSITION	7000.00
SUPPLIES COSTS/POSITION	3500.00
EQUIPMENT COSTS/POSITION	1500.00
OTHER COSTS/POSITION	0.00
TOTAL COSTS/POSITION	66890.24

NUMBER POSITIONS REQUESTED:	1
TOT. PERS. SVCS,	1 POSITIONS 49890.24
TOT. ASSOC. COSTS,	1 POSITIONS 17000.00
TOTAL COSTS,	1 POSITIONS 66890.24
GEN. FUND AMOUNT,	1 POSITIONS 49890.24

N016	N/A	PARALEGAL ASST II		F KETCHIKAN					A G A 16A	10	27016	0	8302	35319.03	35319.03
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## \*\*\*\* JUSTIFICATION:

THIS PARALEGAL ASSISTANT II POSITION IN KETCHIKAN IS PART OF THE DEPARTMENT'S COORDINATED RESPONSE TO CHILD SEXUAL ABUSE CASES IN THE STATE. PROSECUTION OF THESE CASES IS EXTREMELY LABOR INTENSIVE, REQUIRING A GREATER DEGREE OF PREPARATION THAN MOST OTHER CRIMINAL MATTERS. AS A VICTIM WITNESS COORDINATOR, THIS POSITION WOULD COORDINATE THE APPEARANCES AND ACTIVITIES OF INVESTIGATIVE AND SOCIAL SERVICE AGENCIES, SCHEDULE AND ENSURE THE APPEARANCE OF NECESSARY EXPERTS, AND BE THE PRIMARY CONTACT WITH THE VICTIM AND THE VICTIM'S FAMILY. ADDITIONALLY, UNDER THE DIRECTION OF THE ASSIGNED PROSECUTOR, THIS POSITION WOULD RESPOND TO NUMEROUS DISCOVERY REQUESTS AND PROVIDE DIRECT ASSISTANCE IN TRIAL PREPARATION. THIS POSITION WOULD ALSO ASSIST IN PREPARATION OF CHILD PROCEEDINGS IN CIVIL ACTIONS, WHICH GENERALLY ATTEND CHILD SEXUAL ABUSE SITUATIONS.

IN KETCHIKAN, THE NUMBER OF CHILD SEXUAL ASSAULT CASES HAS INCREASED BY 50% OVER THE SAME PERIOD IN 1984. SUFFICIENT STAFF ATTORNEYS ARE AVAILABLE IF THEIR TIME COULD BE REDIRECTED TO PROSECUTION. THIS POSITION WILL ALSO ENHANCE THE DEPARTMENT'S ABILITY TO HANDLE CASES ARISING IN THE PETERSBURG-WRANGELL AREAS.

TRAVEL COSTS/POSITION	5000.00
CONTRACTUAL COSTS/POSITION	7000.00
SUPPLIES COSTS/POSITION	3500.00
EQUIPMENT COSTS/POSITION	1500.00
OTHER COSTS/POSITION	0.00
TOTAL COSTS/POSITION	52319.03

NUMBER POSITIONS REQUESTED:	1
TOT. PERS. SVCS,	1 POSITIONS 35319.03
TOT. ASSOC. COSTS,	1 POSITIONS 17000.00
TOTAL COSTS,	1 POSITIONS 52319.03
GEN. FUND AMOUNT,	1 POSITIONS 35319.03

00027

12/18/84

14:15:24.6

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 3

DEPARTMENT OF LAW

SCENARIO: 16

COMPONENT #: 036501020100 NAME: FIRST JUDICIAL DISTRICT

BRU NAME: PROSECUTION

\*\*\*\* TOTALS FOR COMPONENT 036501020100 :

FULL TIME NEW POSITIONS	2
PART TIME/SEASONAL NEW POSITIONS	0
NON PERMANENT NEW POSITIONS	0
OTHER.....	0
	====

TOTAL PERSONAL SERVICES	85209.27
TOTAL COSTS INC ASSOC COSTS	119209.27

NUMBER OF NEW POSITIONS IN COMPONENT 036501020100 = 2

FUNDING DATA: G.F. & G.F. MATCH:	85209.27
OTHER FUNDS:	0.00
	=====
TOTAL FUNDING:	85209.27