

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1462 SHESS SB 89 - SB 90 902



January 30, 1981

Senator Charlie Parr
Pouch V, State Capital
Juneau, Alaska 99811

Dear Charlie:

I want to reiterate my support of SB 89, amending the child protection statutes. However, in reviewing it more closely and discussing its implications with Division of Social Services staff; there are three areas of the bill which deserve further consideration.

1. Sec. 7 AS47.17.070
The definition of mental injury or neglect does not reflect allowances for the many cultural differences in the children of our state. "With due regard to his culture" is omitted at the conclusion of the definition.
2. Sec. 6 AS47.17.070(1)
This section of the bill is concerned with the types of reportable abuse and neglect. It does not include the sexual exploitation of children as a reportable form of child abuse. Child pornography is a growing national problem, and does exist in Alaska.
3. Sec. 47.10.14?
Sexual abuse is not mentioned as grounds for taking emergency custody of a child by the Division of Social Services, although the other recognized forms of abuse and neglect are included. This restricts early intervention, and would most likely put the child and the family under greater pressure, if sexual abuse exists and no intervention is possible at the time of initial investigation by the Division.

The issues raised may seem insignificant. Those of us who must work within the prevailing helping system are aware that, in the best of situations, child abuse and neglect presents a complex set of problems to face with a family. Clearer definitions within the child protection statutes would be a valuable resource in providing services earlier to families in need.

If further background material is needed regarding this legislation, please feel free to contact the Center for assistance. Thank you again for your continued effort and support of this important legislation.

Sincerely,

Blanche

Blanche Brank, Director
645 North Avenue

Fairbanks, Alaska 99701

1981 156-2100

Statistics on sexual exploitation - see p. 2

Introduced: 1/15/81
Referred: Health, Education &
Social Services and Finance

1 IN THE SENATE

BY PARR, FAHRENKAMP, FISCHER
AND STIMSON

2 SENATE BILL NO. 89

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the child protection laws; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 47.10.010(a)(2) is amended by adding a new subpara-
10 graph to read:

11 (F) the child having suffered substantial mental or
12 physical neglect as a result of conditions created by the child's
13 parent, guardian or custodian.

14 * Sec. 2. AS 47.17.010 is amended to read:

15 Sec. 47.17.010. PURPOSE. In order to protect children whose
16 health and well-being may be adversely affected through the infliction,
17 by other than accidental means, of harm through physical or mental abuse
18 or neglect [REQUIRING THE ATTENTION OF A PRACTITIONER OF THE HEALING
19 ARTS], the legislature requires the reporting of these cases by practi-
20 tioners of the healing arts and others to the appropriate public autho-
21 rities. It is the intent of the legislature that, as a result of these
22 reports, protective services will be made available in an effort to
23 prevent further harm to the child, to safeguard and enhance the general
24 well-being of the children in this state, and to preserve family life
25 whenever possible.

26 * Sec. 3. AS 47.17.020(a)(2) is amended to read:

27 (2) school teachers and school administrative staff members;

28 * Sec. 4. AS 47.17.020(a) is amended by adding a new paragraph to read:

29 (6) individuals involved in day care and foster care

1 * Sec. 5. AS 47.17 is amended by adding new sections to read:

2 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. A person required to
3 report suspected physical or mental injury or neglect under this chapter
4 may without the permission of the parents

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

7 (2) if medically indicated, have a radiological examination
8 of the child performed.

9 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person required
10 to file a report of abuse or neglect under AS 47.17.020 who wilfully or
11 knowingly fails or refuses to report the harm required under AS 47.17.-
12 020 is guilty of a class B misdemeanor.

13 * Sec. 6. AS 47.17.070(1) is amended to read:

14 (1) "child abuse or neglect" means the physical or mental
15 injury or neglect, sexual abuse, ^{or sexual exploitation - pornography} or maltreatment of a child under the
16 age of 18 by a person who is responsible for the child's welfare under
17 circumstances which indicate that the child's health or welfare is
18 harmed or threatened thereby;

19 * Sec. 7. AS 47.17.070 is amended by adding a new paragraph to read:

20 (7) "mental injury or neglect" means injury or neglect to
21 the intellectual or psychological capacity of a child evidenced by a
22 substantial impairment to the child's ability to function within the
23 child's normal range of performance and behavior.

24 * Sec. 8. This Act takes effect July 1, 1981.
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29

SB 89

§ 11.66.100

ALASKA STATUTES

§ 11.66.120

§ 11.66

(Effective January 1, 1980)

Article 1. Prostitution and Related Offenses.

- Section 100. Prostitution
- 110. Promoting prostitution in the first degree
- 120. Promoting prostitution in the second degree

- Section 180. Promoting prostitution in the third degree
- 140. Evidence required for §§ 110 — 180 of this chapter
- 160. Definitions

Sec. 11.66.100. Prostitution. (a) A person commits the crime of prostitution if he engages in or agrees or offers to engage in sexual conduct in return for a fee.

(b) Prostitution is a class B misdemeanor. (§ 8 ch 166 SLA 1978)

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law, whereas fornication and prostitution were not. *Eleazar v. United States*, 16 Alas. 561, 241 F.2d 385 (9th Cir. 1956), decided under former AS 11.40.220.

Am. Jur., ALR and C.J.S. references. — 42 Am. Jur., Prostitution, § 1 et seq.

Prostitution as vagrancy, 14 ALR 1501. Entrapment to procure women for immoral purposes, 18 ALR 186; 66 ALR 506; 86 ALR 272. 73 C.J.S., Prostitution, § 1 et seq.

Sec. 11.66.110. Promoting prostitution in the first degree. (a) A person commits the crime of promoting prostitution in the first degree if he

- (1) induces or causes a person to engage in prostitution through the use of force;
- (2) as other than a patron of a prostitute, induces or causes a person under 16 years of age to engage in prostitution; or
- (3) induces or causes a person in his legal custody to engage in prostitution.

(b) In a prosecution under (a)(2) of this section, it is not a defense that the defendant reasonably believed that the person he induced or caused to engage in prostitution was 16 years of age or older.

(c) Promoting prostitution in the first degree is a class B felony. (§ 8 ch 166 SLA 1978)

For case construing former statute prohibiting importing or exporting females for immoral purposes, see *State v. Adkerson*, Sup. Ct. Op. No. 294 (File No. 520), 403 P.2d 673 (1965).

Sentence for procurement upheld. — See *Price v. State*, Sup. Ct. Op. No. 1450 (File No. 2794), 565 P.2d 658 (1977), decided under former AS 11.40.360.

Am. Jur., ALR and C.J.S. references. — 42 Am. Jur., Prostitution, § 5 et seq. Transporting female for purpose of prostitution, 74 ALR 330. Woman consenting or consenting to own transportation, 64 ALR 375. 73 C.J.S., Prostitution, §§ 6 to 6.

Sec. 11.66.120. Promoting prostitution in the second degree. (a) A person commits the crime of promoting prostitution in the second degree if he

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Op. No. 2
(1972).

(Effective January 1, 1980)

State, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

Physical conduct punished under former statute. — See *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977); *Smiloff v. State*, Sup. Ct. Op. No. 1637 (File No. 3006), 579 P.2d 28 (1978).

Former section prohibited fellatio. — See *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

Consent is not at issue. — The state may forbid an adult to have fellatio with a child under the statutorily prescribed age regardless of whether the child consents to the act. *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

Sentence under AS 11.15.134 upheld. — See *Noble v. State*, Sup. Ct. Op. No. 1286 (File No. 2468), 552 P.2d 142 (1976); *Buchanan v. State*, Sup. Ct. Op. No. 1316 (File No. 2553), 554 P.2d 1153 (1976).

Am. Jur., ALR and C.J.S. references. — 36 Am. Jur., *Mayhem and Related Offenses*, § 1 et seq.

Mayhem as dependent on part of body injured and extent of injury, 16 ALR 955; 58 ALR 1320.

Mayhem by use of poison or acid, 58 ALR 1328.

57 C.J.S., *Mayhem*, §§ 1 to 12.

Sec. 11.41.445. General provisions. (a) In a prosecution under §§ 410 — 440 of this chapter, it is an affirmative defense that, at the time of the alleged offense, the victim was the legal spouse of the defendant unless

- (1) the spouses were living apart; or
- (2) the defendant caused physical injury to the victim.

(b) In a prosecution under §§ 410 — 440 of this chapter, whenever a provision of law defining an offense depends upon a victim's being under a certain age, it is an affirmative defense that, at the time of the alleged offense, the defendant reasonably believed the victim to be that age or older, unless the victim was under 13 years of age at the time of the alleged offense. (§ 3 ch 166 SLA 1978)

Sec. 11.41.450. Incest. (a) A person commits the crime of incest if, being 18 years of age or older, he engages in sexual penetration with a person who is related to him, either legitimately or illegitimately, as

- (1) his ancestor or descendant of the whole or half blood;
- (2) his brother or sister of the whole or half blood; or
- (3) his uncle, aunt, nephew, or niece by blood.

(b) Incest is a class C felony. (§ 3 ch 166 SLA 1978)

Death of defendant abated prosecution under former section. *Hartwell v. State*, Sup. Ct. Op. No. 391 (File No. 704), 423 P.2d 282 (1967), decided under former AS 11.40.110.

Am. Jur., ALR and C.J.S. references. — 27 Am. Jur., *Incest*, § 1 et seq.

Aiding and abetting offense of incest by one not related to party, 5 ALR 784.

Relationship created by adoption as within statute regarding incest, 151 ALR 1146.

Consent as element of incest, 36 ALR2d 1299.

42 C.J.S., *Incest*, §§ 1 to 16.

Sec. 11.41.455. Unlawful exploitation of a minor. (a) A person commits the crime of unlawful exploitation of a minor if, in this state and with the intent of producing for any commercial purpose a live performance, film, photograph, negative, slide, book, newspaper, or

(Effective January 1, 1980)

magazine that depicts such conduct, he knowingly induces or employs a child under 16 years of age to engage in, or photographs, films, or televises a child under 16 years of age engaged in

- (1) sexual penetration;
- (2) the obscene touching of another person's genitals, anus, or female breast;
- (3) the obscene touching by another person of the child's genitals, anus, or female breast;
- (4) masturbation;
- (5) bestiality; or
- (6) the obscene exhibition of the child's genitals.

(b) Unlawful exploitation of a minor is a class B felony. (§ 3 ch 166 SLA 1978)

Sec. 11.41.470. Definitions. For purposes of §§ 410 — 470 of this chapter, unless the context requires otherwise,

(1) "in. apacitated" means that a person is temporarily incapable of appraising the nature of his conduct and is physically unable to express unwillingness to act;

(2) "victim" means the person alleged to have been subjected to sexual assault in any degree or sexual abuse of a minor;

(3) "without consent" means that a person

(A) with or without resisting, is coerced by the use of force against a person or property, or by the express or implied threat of imminent death, imminent physical injury, or imminent kidnapping to be inflicted on anyone; or

(B) is incapacitated as a result of an act of the defendant. (§ 3 ch 166 SLA 1978)

Article 5. Robbery, Extortion, and Coercion.

Section

500. Robbery in the first degree

510. Robbery in the second degree

Section

520. Extortion

530. Coercion

Sec. 11.41.500. Robbery in the first degree. (a) A person commits the crime of robbery in the first degree if he violates § 510 of this chapter and, in the course of violating that section or in immediate flight thereafter, he or another participant

(1) is armed with a deadly weapon or represents by words or other conduct that he or another participant is so armed;

(2) uses or attempts to use a dangerous instrument or represents by words or other conduct that he or another participant is armed with a dangerous instrument; or

(3) causes or attempts to cause serious physical injury to any person.

(b) Robbery in the first degree is a class A felony. (§ 3 ch 166 SLA 1978)

Copy to Linda

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FROM: TERRY
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TO: SGM. KENNETH FAHRENKAMP, POBR, TANKCOUTH, ELLISON, PERSIMON,
SGM. SACKETT, STANSON, COLLETT, FITCHER, PENNY, STURGEON,
FR: WJH2 SUEJ-1007 EVERGREEN ST. 97701, PH 456-7887
REF: FAHRENKAMP RESOURCE CENTER FOR PARENTS & CHILDREN

TO: CB 84
PLEASE ADVISE FOR DENIALS WILL BE. PLEASE ALSO INCLUDE ADULTS - INFER-
ENCES AND/OR ADVISORIES FOR CULTURAL DIFFERENCES. SEE: 6 (1) NEEDS
ALSO TO INCLUDE PERMANENT EDUCATION, (PONSORSHIP, ETC.)

copies for members

St. Matthew's Episcopal Church

1030 Second Avenue Fairbanks, Alaska 99701

January 28, 1981



The Rev. Donald F. Hart, Rector

Mr. Charlie Parr
Pouch V
Juneau, Alaska 99811

Dear Charlie:

I see that Senate Bill No. 98, revising the child abuse statues has come up for discussion, and I want to thank you very much for your work in promoting it.

Although it may not have the bright lights significance of oil legislation and permanent fund allocations, I believe that this bill does speak to the quality of life here in Alaska and our treatment of children. And it is terribly important that we do our best in providing for their rights. SB 89 does a good job, and I hope that your committee will report it out with a clear recommendation to the Senate for passage.

Many thanks for all that you do. My best wishes.

Sincerely,

Donald P. Hart

DPH/agp

SB 89

§ 47.10.142

ALASKA STATUTES

§ 47.10.142

(f) A peace officer may detain a minor who is evading the person having legal custody of him if the minor is not otherwise subject to arrest or detention under (a) of this section, for the sole purpose of either (1) returning the minor to the person having legal custody of him or (2) if the minor prefers, taking him to an office specified by the Department of Health and Social Services, facility or contract agency of the Department of Health and Social Services where such exists in the community. Immediately upon detaining a minor under this provision, the peace officer shall advise him of his right to social services under AS 47.10.142(b), and, if known, the peace officer shall advise the person having the legal custody of the minor of his detention.

(g) No minor who is detained under (f) of this section may be detained in a jail or other facility unless kept out of contact with adult persons convicted or accused of a crime. No minor may be detained in a jail or other detention facility which has not been approved by the Department of Health and Social Services before detention of the minor. (§ 15 art I ch 145 SLA 1957; am § 3 ch 118 SLA 1962; am § 2 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am §§ 1, 2 ch 128 SLA 1972)

Detention orders neither based on competent testimony nor accompanied by the required statement of facts are invalid. In re P.H., Sup. Ct. Op. No. 857 (File No. 1538), 504 P.2d 837 (1972).

Sec. 47.10.142. Emergency custody and temporary placement hearing. (a) The Department of Health and Social Services may take emergency custody of a minor upon discovering any of the following circumstances:

(1) the minor has been abandoned;

(2) the minor has been grossly neglected by his parents or guardian, as "neglect" is defined in AS 47.17.070(5), so that immediate removal from his surroundings is, in the determination of the department, necessary to protect his life;

(3) the minor has been abused, as "abuse" is defined in AS 47.17.070(1), so that immediate medical attention is necessary, in the determination of the department.

(b) A minor who has left home and is evading the person having legal custody of him may obtain the services of the department. The department shall assess the situation and furnish the minor with the social services it considers appropriate to protect the well-being of the minor and to preserve his family life if preserving it is considered desirable under the circumstances. If, after assessing the situation, considering the wishes of the minor, and furnishing appropriate social services, the department considers it necessary, the department may take emergency custody of the minor.

(c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the

§ 47.10.150

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(d) The after being hearing at guardian, court shall minor to b shall infor of the rea given as a

(e) If th committed returned department probable parents of § 24 ch 6

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parents or the person or persons having custody of the child and the court of the action and file with the court a petition alleging that the child is a child in need of aid.

(d) The court shall immediately, and in no event more than 48 hours after being notified unless prevented by lack of transportation, hold a hearing at which the minor, if his health permits, and his parents or guardian, if they can be found, shall be permitted to be present. The court shall determine whether probable cause exists for believing the minor to be a child in need of aid, as defined in AS 47.10.290(8). The court shall inform the minor, and his parents or guardian if they can be found, of the reasons given as constituting probable cause and the reasons given as authorizing his temporary placement.

(e) If the court finds that probable cause exists it shall order the minor committed to the department for temporary placement, or order him returned to the custody of his parents or guardian subject to the department's supervision of his care and treatment. If the court finds no probable cause it shall order the minor returned to the custody of his parents or guardian. (§ 3 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am § 24 ch 63 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "that the child is a child in need of aid" for "dependency" at the end of subsection (c) and "child in need of aid, as defined in § 290(8)" for "dependent minor, as defined in § 290(3)" in the second sentence of subsection (d).

Article 2. Juvenile Institutions.

Section	Section
150. General powers of department over juvenile institutions	190. Conditions governing detention
160. Duties of department	200. Releasing juveniles after commitment
170. Power of cities to maintain and operate home or facility	210. Youth counselors
180. Operation of homes and facilities	220. Grants-in-aid

Sec. 47.10.150. General powers of department over juvenile institutions. The Department of Health and Social Services may

- (1) purchase, lease or construct buildings or other facilities for the care, detention, rehabilitation and education of children in need of aid or delinquent minors;
- (2) adopt plans for construction of juvenile homes, juvenile detention facilities, and other juvenile institutions;
- (3) adopt standards and regulations under this chapter for the design, construction, repair, maintenance and operation of all juvenile detention homes, facilities, and institutions;
- (4) inspect periodically each juvenile detention home, facility, or other institution to insure that the standards and regulations adopted are being maintained;

The legacy of incest: humiliation and fear

Daily News reporter

First of three parts

For Karen, it began at age 3 when her 20-year-old stepbrother came to her bedroom one night and fondled her. A year later, an uncle forced her to perform oral sex. At age 6, she was assaulted by her babysitter's husband. At 13, growing up on a military base, she endured six months of continual assaults by the father of two children for whom she babysat. At 14, it was her stepfather who molested her. At 16, on a trip to Seward, she was coerced into performing a sex act on a G.I. Later that year, another G.I. took her in the back seat of a car.

Karen is the first to admit that not all these instances involved the use of physical force, but she says she became vulnerable to such attacks because "It was drilled into me at a very early age that you don't say no.

"My parents got the message into me that sex was dirty. If I told them, I knew they would blame me. What are you supposed to do? Your uncle is not only someone you're supposed to love, he's also an adult, an authority figure. How can you say 'no'?"

"I never told my parents about any of this until last year," says Karen, now 25 and an avowed lesbian.

As harrowing as it is, Karen's story is not atypical of the tales told by other incest victims.

A national study indicates that nearly 30 percent of all girls and 10 percent of all boys have been sexually molested by age 18 — and 60 to 70 percent of the attacks were by family members. At some point in their lives, says an Anchorage expert, 7,000 local children will fall victim to incest.

Most recite long litanies of sexual violations beginning in early childhood and continuing through adolescence. Only recently have they sought help; only recently have they admitted — even to themselves — how the experiences have affected their ability to function as adults.

How many children in Anchorage are sexually abused by their parents or relatives? In a national study last year, researcher David Finkelhor determined that nearly 30 percent of all girls and 10 percent of all boys are sexually molested before they reach the age of 18, and 60 to 70 percent of these attacks are by family members. Based on these figures, Mike Walti, executive director of the Center for Children and Parents, estimates that, at some point in their lives, 7,000 Anchorage youngsters will become victims of incest.

Most of the attacks, Walti says, will go unreported; others will come to light years later when the victim seeks therapy for some seemingly unrelated emotional problem. Only a handful will be discovered as the incest is actually occurring — and many of these will

first be perceived as a teen-age runaway problem or juvenile delinquency.

A disproportionate number of incestuous assaults, says Sgt. John Needham of the Anchorage Police Department, are reported from broken homes and lower-income families. The majority of victims are from 8 to 14 years old; some are even younger. Starting with cuddling and petting, the abuse increases in seriousness over two or three years until it becomes intercourse.

The perpetrators are usually fathers or stepfathers, although uncles, brothers and other male relatives also commit the abuse. Very seldom is a mother or female relative involved; when young boys are assaulted, they most often are victims of a homosexual attack.

APD's Juvenile Investigations Division handles 10 to 20 cases of sexual abuse each month; of these, Needham says, 10 to 15 percent involve actual intercourse. Only about one in every hundred victims is a boy. Usually, the incest has been going on for three to four years and, not infrequently, it involves all the daughters in the family.

Rarely does a victim seek help herself; more commonly, she tells a friend, the friend tells her mother, and the mother then notifies the police or the State Division of Social Services.

The victim's own mother often claims to be ignorant of the situation — and the girl herself is usually too scared or confused to know where to turn.

"For a long time," explains Paula R., "I thought, 'This is something every little girl's father does to her.' Then I noticed that no one else talked about it and I thought I was the only one in the world it happened to." At the time it was happening to her, the 23-year-old woman says, there was no readily available aid for incest victims.

Fortunately, Anchorage today has several agencies dealing with the problem, including the Center for Children and Parents, the Division of Social Services and Standing Together Against Rape. Yet even now, sexually abused children are reluctant to tell anyone what's happening to them.

"They learn early what things they can talk about and which are taboo," says Walti. "It's not O.K. to talk about sex in the home. They internalize that message and grow up with that secret."

Sometimes, says therapist Sue Pope, who leads a group of former incest victims at the Center, "they even begin to wonder if (the attack) really happened, especially if Dad keeps denying it."

RESOURCE CENTER FOR
PARENTS & CHILDREN

January 30, 1981

Senator Charlie Parr
Pouch V, State Capital
Juneau, Alaska 99811

Dear Charlie:

I want to reiterate my support of SB 89, amending the child protection statutes. However, in reviewing it more closely and discussing its implications with Division of Social Services staff; there are three areas of the bill which deserve further consideration.

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The definition of mental injury or neglect does not reflect allowances for the many cultural differences in the children of our state. "With due regard to his culture" is omitted at the conclusion of the definition.
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The issues raised may seem insignificant. Those of us who must work within the prevailing helping system are aware that, in the best of situations, child abuse and neglect presents a complex set of problems to face with a family. Clearer definitions within the child protection statutes would be a valuable resource in providing services earlier to families in need.

If further background material is needed regarding this legislation, please feel free to contact the Center for assistance. Thank you again for your continued effort and support of this important legislation.

Sincerely,

Blanche

Blanche Brunk, Director
345 Ninth Avenue

Fairbanks, Alaska 99701

(907) 456-2866

January 21, 1981

Senator Charles H. Parr
Pouch V, State Capitol
Juneau, Alaska 99811

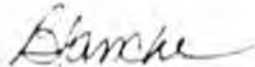
Dear Charlie,

I urge your committee's favorable consideration of SB 89, amending the child protection laws in Alaska. This bill would strengthen mandatory reporting requirements by school personnel and foster and day care providers--- often the only contact points for a child who is being abused or neglected. The legal definitions of abuse and neglect would be broadened by this legislation, to include those emotional abuses which are as harmful to a child as physical maltreatment.

As a professional involved with families, I know that child abuse and its far reaching damage are significant problems in our state. SB 89 would make major contributions to earlier intervention and prevention of child abuse and neglect, making more likely the successful resolution of this complex problem.

Thank you for your support of and interest in this important legislation.

Sincerely,



Blanche Brunk, Director

FCPTF, INC. Resource Center For Parents & Children

FEBRUARY 17, 1981

TO WHOM IT MAY CONCERN,

WE AS MOTHERS ARE FEELING THE PAIN AND WITNESSING THE EMOTIONAL DAMAGE OF OUR SEXUALLY ABUSED CHILDREN DUE TO INCEST IN WHICH HAS TAKEN PLACE IN OUR HOME. AS MOTHERS OF OUR VICTIMIZED CHILDREN, WE BEG OF YOU TO CHANGE THE LAW OF THIS UNJUSTIFIED CRIME SO JUSTICE WILL BE DONE TO THE ABUSER. AS YOU MUST BE AWARE OF, INCEST IS NO LESS THAN A CRIME AND SHOULD BE TREATED AS SUCH. WE AS MOTHERS HAVE EXPERIENCED PAIN AND HEARTBREAK ABOVE ALL OTHERS. WE WATCH OUR CHILDREN SUFFERING EACH MINUTE OF THE DAY FROM THE EMOTIONAL DAMAGE PUT UPON THEM BY THEIR FATHER'S. WE ARE LEFT TO PICK THE PIECES UP WHILE THE ABUSER IS REMOVED FROM THE HOUSE TO ROAM AROUND WITH NO CRIMINAL JUSTICE DONE TO THEM. OUR CHILDREN HAVE BEEN SEXUALLY ABUSED AND WE BEG OF YOU FOR THE ABUSER TO BE JAILED IMMEDIATELY. SOMETHING HAS TO BE DONE-----INCEST IS A CRIME AND SHOULD BE TREATED AS SUCH! WE AS MOTHERS ALSO FEEL A WORK PROGRAM IS THE ANSWER FOR THIS CRIME. WE WOULD LIKE TO SEE THE ABUSER BE ALLOWED TO WORK HIS JOB SO AS SUPPORT WILL CONTINUE TO THE HOUSEHOLD; AND RETURN TO JAIL IMMEDIATELY AFTER WORK IN WHICH CASE COUNSELING IS REQUIRED IN ALL CASES-----NOT ONCE A WEEK, BUT SEVERAL TIMES A WEEK. OUR CONCERN IS THE WELFARE OF OUR CHILDREN BEING ABLE TO LIVE A NORMAL LIFE AFTER THIS HORRIBLE, UNCAINNY CRIME HAS BEEN DONE TO THEM. THE WAY THE LAW IS NOW THEY CAN'T FULLY RECOVER KNOWING NO PUNISHMENT HAS BEEN DONE TO THE ABUSER. IT'S LIKELY IN A LOT OF CASES THAT THE ABUSER WILL REPEAT HIS CRIME BECAUSE HE HAS NOT ACKNOWLEDGED THE WRONG HE'S DONE SINCE HE HAS NOT BEEN PUNISHED.

WE FIND IT HARD TO ACCEPT THAT IF THE ABUSER SEXUALLY ABUSED THE NEIGH-
BORS' CHILDREN, CRIMINAL JUSTICE WOULD BE DONE-----BUT WHEN THE ABUSER
SEXUALLY ABUSES HIS CHILDREN, NO CRIMINAL JUSTICE IS DONE!! WE ARE
ASKING FOR THE SYSTEM TO CHANGE WITHOUT FUTURE DELAY FOR THE SAKES OF
OUR CHILDREN AND OTHER FAMILY MEMBERS.

Susan G. Boyle

Elizabeth W. Holt

Diana L. Parker

White - Jan

Mary T. White

Renee K. White

Cheryl Smith

Deborah A. Haase

5/5/84 (unclear)

Edna Cameron

Rick Martinez

Kim Whitman

Janet Clark

Ken Hill

Patricia Hansen

SIGNED,

Kimberly Soufer
Aly Taylor

Darlene Soufer

Clare King

Judith B. Harvey, V.M.D.
SR 70389
Fairbanks, AK 99701
January 22, 1981

Sen. Charles H. Parr
Room 210, Behrends
Pouch V
Juneau, AK 99811

Dear Sen. Parr;

I am writing in support of Senate Bill 89. This bill would be an important step in helping the children of this state. It makes reporting of suspected child abuse mandatory by all those who may come in contact with an abused child. It also adds 'emotional' abuse as abuse. I feel this is most vital. So often we only think of physical abuse... injury to a body. Physical injuries heal but so often it is mental abuse... either abuse or abuse through neglect or improper attention to a child's emotional needs that leave longer lasting scars.

Alaska is often a difficult state to survive in and even a more difficult state in which to raise children. Problems exist such as 'cabin fever' and increased indoor time for children. I feel it most urgent to add this Bill to the child protection laws. I do not look at it as 'government interference' into family life, but rather as help for the children when they really need it.

I feel sure you feel the same way. I would appreciate your mentioning my letter of support for the Bill to the rest of the Senate Health, Education, and Social Services Committee.

Sincerely yours,

Judith Harvey

Judith B. Harvey, V.M.D.

Rocky

talk to Sandra about this and take over where she left off -

if available { books -> info
Arch. -> info
journals info

Introduced: 1/15/81
Referred: Health, Education & Social Services and Finance

1 IN THE SENATE BY PARR, FAHRENKAMP, FISCHER AND STIMSON

2 SENATE BILL NO. 89
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act amending the child protection laws; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 47.10.010(a)(2) is amended by adding a new subparagraph
10 to read:

11 (F) the child having suffered substantial mental or
12 physical neglect as a result of conditions created by the child's
13 parent, guardian or custodian.

14 * Sec. 2. AS 47.17.010 is amended to read:

15 Sec. 47.17.010. PURPOSE. In order to protect children whose
16 health and well-being may be adversely affected through the infliction,
17 by other than accidental means, of harm through physical or mental abuse
18 or neglect (REQUIRING THE ATTENTION OF A PRACTITIONER OF THE HEALING
19 ARTS), the legislature requires the reporting of these cases by practi-
20 tioners of the healing arts and others to the appropriate public autho-
21 rities. It is the intent of the legislature that, as a result of these
22 reports, protective services will be made available in an effort to
23 prevent further harm to the child, to safeguard and enhance the general
24 well-being of the children in this state, and to preserve family life
25 whenever possible.

26 * Sec. 3. AS 47.17.020(a)(2) is amended to read:

27 (2) school teachers and school administrative staff members;

28 * Sec. 4. AS 47.17.020(a) is amended by adding a new paragraph to read:

29 (6) individuals involved in day care and foster care.

1 * Sec. 5. AS 47.17 is amended by adding new sections to read:

2 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. A person required to
3 report suspected physical or mental injury or neglect under this chapter
4 may without the permission of the parents

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

7 (2) if medically indicated, have a radiological examination
8 of the child performed.

9 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person required
10 to file a report of abuse or neglect under AS 47.17.020 who wilfully or
11 knowingly fails or refuses to report the harm required under AS 47.17.-
12 020 is guilty of a class B misdemeanor.

13 * Sec. 6. AS 47.17.070(1) is amended to read:

14 (1) "child abuse or neglect" means the physical or mental
15 injury or neglect, sexual abuse, or maltreatment of a child under the
16 age of 18 by a person who is responsible for the child's welfare under
17 circumstances which indicate that the child's health or welfare is
18 harmed or threatened thereby;

19 * Sec. 7. AS 47.17.070 is amended by adding a new paragraph to read:

20 (7) "mental injury or neglect" means injury or neglect to
21 the intellectual or psychological capacity of a child evidenced by a
22 substantial impairment to the child's ability to function within the
23 child's normal range of performance and behavior.

24 * Sec. 8. This Act takes effect July 1, 1981.
25
26
27
28
29

Miko Walti 276-4994
Judy Sharp
Center for Children &
Parents
808 E Street
99501

SB 89 Testify

Sheffield
716
6-6900

SB 89

Saibanks Child
Protection Task
Force

456-2866

Blanch Brock - R

~~Blanch Brock~~

545 9th Ave. 99701

Mira Munson - 274-7502
anch.

Model Leg.

State law not in conformance
w/ Fed. laws - does not include
mental abuse. - law needs to meet
standards

456-5235 Don Hart - ~~Episcopal~~ Episcopal Minister

Gronne Walker - Junau H&SS office
465-3173

technical
w/tech. assistance

277-1494 Anchorage Child Abuse Board
Unit for Children & Parents
343 G St.
anch. 99501

* Leda Shaw - Dept. Law 3603
gone until 2-13-81

Kay Smith 6-1861
James Fox, Pres. 452-1844

social workers -

Dee Ann Schafeld - 3190

Barbara McPherson - CTPA -

2-2-81

M&SS

any special cases?

Judith E. Harvey, V.M.D.
SR 70389
Fairbanks, AK 99701
January 22, 1981

Sen. Charles H. Parr
Room 210, Behrends
Pouch V
Juneau, AK 99811

Dear Sen. Parr;

I am writing in support of Senate Bill 39. This bill would be an important step in helping the children of this state. It makes reporting of suspected child abuse mandatory by all those who may come in contact with an abused child. It also adds 'emotional' abuse as abuse. I feel this is most vital. So often we only think of physical abuse... injury to a body. Physical injuries heal but so often it is mental abuse... either abuse or abuse through neglect or improper attention to a child's emotional needs that leave longer lasting scars.

Alaska is often a difficult state to survive in and even a more difficult state in which to raise children. Problems exist such as 'cabin fever' and increased indoor time for children. I feel it most urgent to add this Bill to the child protection laws. I do not look at it as 'government interference' into family life, but rather as help for the children when they really need it.

I feel sure you feel the same way. I would appreciate your mentioning my letter of support for the Bill to the rest of the Senate Health, Education, and Social Services Committee.

Sincerely yours,

Judy Harvey

Judith E. Harvey, V.M.D.

MEMORANDUM

TO: [

John Pugh
Social Services Field Adm.
Juneau, Alaska

DATE

March 4, 1980

FILE NO

TELEPHONE NO

SUBJECT

Emergency Custody
Statutes 47.10.142

FROM:

Floy Ann MacPhee *FAM*
Staff Manager
Northern Regional Office

As you know, when the children's codes were revised 47.10.142 was not. I am really seeing the need for a change/addition to more clearly protect the young sexually abused child, the child who is too young to refuse to return home. Although the definition of abuse includes sexual abuse 47.10.142 (3) qualifies the taking emergency custody of an abused child to a situation where "immediate medical attention is necessary." (Or imminent danger of physical harm.)"

In most instances of sexual abuse, medical attention is indicated but it is often not "immediately" needed. In most situations where there is sexual abuse of a child under teenage years, emergency custody is indicated. Reasons for this include:

- 1) The child comes under incredible pressure from the family not to tell or if they already have, to change their story.
- 2) The child does not feel safe.
- 3) Potential of physical retaliation.
- 4) The telling does not prevent on-going sexual abuse.
- 5) When the family convinces child to change the story we often have no grounds to continue to intervene to protect the child.
- 6) The family generally will not confront and deal with what has occurred without intervention.

Although we are taking emergency custody in most situations, if we ever get challenged on this, we are probably on pretty shaky grounds. Suggested wording for a change in the statute could be: 47.10.142 (3) the minor has been sexually abused under circumstances defined in 47.10.010(D). Change current (3) to (4).

CC: Niesje Steinkruger

FAM/dh

TABLE A
WHO REPORTS

States and Territories	"Any Person" or "Any Other Person"	WHO MUST REPORT																		
		Physician	Nurse	Surgeon	Osteopath	Dentist	Resident	Intern	Hospital/Institution Personnel	Practitioner of Healing Arts ¹	Chiropractor	Optometrist	Podiatrist	Pharmacist	Mental Health Professional	Coroner/Medical Examiner				
Alabama		X	X	X	X	X														
Alaska		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Arizona		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Arkansas		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
California		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Colorado		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Connecticut	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Delaware	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
District of Columbia		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Florida	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Georgia		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Hawaii		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Idaho		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Illinc		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Indiana	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Iowa		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Kansas		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Kentucky	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Louisiana	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Maine		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Maryland		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Massachusetts		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Michigan		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Minnesota		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Mississippi		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Missouri		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Montana	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nebraska	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nevada		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
New Hampshire	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
New Jersey	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
New Mexico		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
New York		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
North Carolina		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
North Dakota		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ohio		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Oklahoma	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Oregon		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Pennsylvania		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Rhode Island	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
South Carolina		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
South Dakota	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Tennessee		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Texas	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Utah	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Vermont		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Virginia		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Washington		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
West Virginia		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Wisconsin		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Wyoming	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
American Samoa		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Guam		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Puerto Rico	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Virgin Islands		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

Numbers refer to explanatory notes in Appendix A.

* A state that does not specify categories of professionals that must report, but instead requires that every person of any profession, is checked only in this column.

TABLE A (Continued)

WHO REPORTS

WHO MUST REPORT												WHO MAY REPORT		
Teachers 2	Other School Personnel	Social Services Worker	Law Enforcement Officer	Peace Officer	Police Officers	Probation Officer	Parole Officer	Religious Healing Practitioner 3	Child Care Institution/Worker	Clergyman	Attorney	Others 4	States and Territories	Permissive Reporting
X	X	X	X	X					X			X	Alabama	•
X		X		X				X				X	Alaska	•
X	X	X		X								X	Arizona	
X	X	X	X	X					X			X	Arkansas	•
X	X	X		X		X		X	X	X		X	California	•
X	X	X						X	X			X	Colorado	•
X	X	X			X				X	X			Connecticut	
X	X	X	X						X				Delaware	
X		X	X										District of Columbia	•
X		X										X	Florida	
X	X	X	X						X				Georgia	•
X		X											Hawaii	•
X		X							X				Idaho	
X	X	X	X					X	X			X	Illinois	•
													Indiana	
X	X	X		X					X				Iowa	•
X	X	X	X										Kansas	•
X	X	X		X					X			X	Kentucky	
X		X										X	Louisiana	•
X	X	X	X					X	X				Maine	•
X	X	X	X		X	X	X					X	Maryland	
X	X	X			X	X						X	Massachusetts	•
X	X	X	X						X			X	Michigan	•
X	X	X	X						X				Minnesota	•
X	X	X	X						X	X			Mississippi	
X	X	X	X	X		X	X	X	X	X		X	Missouri	•
X		X	X								X		Montana	
X	X												Nebraska	
X	X	X							X	X	X		Nevada	•
X	X		X					X	X	X		X	New Hampshire	
		X	X										New Jersey	
	X	X	X	X				X	X				New Mexico	
X	X	X	X					X					New York	•
X	X	X	X		X				X				North Carolina	
X	X	X	X			X			X			X	North Dakota	•
X	X	X						X	X		X	X	Ohio	•
													Oklahoma	
X	X	X		X					X	X	X	X	Oregon	
X	X	X	X	X				X	X			X	Pennsylvania	•
													Rhode Island	
X	X	X	X		X			X	X				South Carolina	•
X	X	X	X										South Dakota	•
													Tennessee	
													Texas	
													Utah	
					X							X	Vermont	•
X	X	X	X			X		X	X			X	Virginia	•
X	X	X						X	X			X	Washington	•
X	X	X	X	X				X	X			X	West Virginia	•
X	X	X	X		X				X				Wisconsin	•
													Wyoming	
X	X	X	X	X				X	X				American Samoa	•
X	X	X	X	X				X	X			X	Guam	•
X	X	X							X				Puerto Rico	
X	X	X	X	X					X			X	Virgin Islands	•

NEED FOR SERVICES AND EXTENT OF THE PROBLEM

NATIONWIDE

Child abuse and neglect occurs in all segments of the community. No group is exempt. Abuse and neglect are not restricted by social class, race, religion, ethnic background, or sex.

ALASKA

Families in Alaska, and especially Anchorage, have many of the characteristics that contribute to placing them at high risk for abusing and neglecting their children. These characteristics include:

- 1) Social isolation from friends, extended family, and church and social groups.
- 2) Inability on the part of high risk families to make use of existing community resources and services.
- 3) Rigid expectations of children.
- 4) Multiple crises or stresses.
- 5) Inability of parents to get their needs met other than through their children.

These factors combine with Alaska's severe winters, the high rates of alcohol and drug abuse, and lack of availability of day care or after school supervision to contribute to the high rate of child abuse and neglect in Alaska.

Alaska has 150 open child abuse cases for each 10,000 persons in the state. Washington has 90 per 10,000; Idaho has 81 per 10,000. Source: National Center for Child Abuse, Region X.

Of all the Alaska Division of Family and Youth Services cases, 75% are child abuse and neglect. Source: Alaska Division of Family and Youth Services.

ANCHORAGE

Anchorage has 55 open cases of child abuse and neglect per 10,000 population; New York City has 23 per 10,000. Sources: New York City Social Services; Alaska Division of Family and Youth Services.

Anchorage averages 70-80 new reports of child abuse and neglect monthly. Approximately 12 of those are for incest and child sexual abuse. Source: Anchorage District Office, Division of Family and Youth Services.

INCEST AND CHILD SEXUAL ABUSE

New reports of incest in Anchorage averaged one per month in 1979. They averaged 12 per month in 1980. Source: Anchorage District Office, Division of Family and Youth Services.

The Anchorage Child Abuse Board and staff treated 38 incest involved families during the eight months this service was provided in 1980. Source: Center for Children and Parents.

Of the children in the cottages at McLaughlin Youth Center, 70% report being sexually abused in their homes by close relatives or family friends. Source: McLaughlin Youth Center.

Between 80% and 90% of the girls at the Salvation Army Booth Home in Anchorage report having been sexually abused by parents, relatives, or close family friends. Source: Booth Home Director.

"In 75% of child molest cases, the offender is a member of the child's own household, a neighbor, a friend, or a person in the community with whom the child has frequent contact.....In 27% of the cases the offender was a relative by blood or marriage.....Almost 40% of the cases involved persons closely related to the child. Source: Three year study in New York City; DeFrancis, 1979.

Between 20% and 30% of all girls in the United States will be sexually molested before the age of 16 years. The majority of these incidents will occur in the family by relatives of the victims. The figure for the boys is 10% to 20%. Source: Finklehor, 1980, and various other estimates and studies.

ALASKA AGENCIES WORKING ON THE PROBLEM

The Anchorage Child Abuse Board, Cook Inlet Native Association's Family Services Program, and the Fairbanks Child Protection Task Force are the only programs in Alaska which are specifically designed to focus on child abuse, its prevention and treatment. Other agencies encounter child abuse and neglect cases but only as a part of larger programs.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Public Safety	Sponsor (Principal) Health, Educ. & Soc. Ser.Com.	Bill Number CSSB 89
Department Position Support Bill		
Division Director Colonel T. K. Anderson	Date 4-03-81	Commissioner William R. Nix <i>WN</i>

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
---	----	------

SUMMARY

1. a) Related Bills (Similar or Conflicting)	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill
3. Program Effects of Bill	

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

RESOURCE CENTER FOR
PARENTS & CHILDREN

January 30, 1981

Senator Charlie Parr
Pouch V, State Capital
Juneau, Alaska 99811

Dear Charlie:

I want to reiterate my support of SB 89, amending the child protection statutes. However, in reviewing it more closely and discussing its implications with Division of Social Services staff; there are three areas of the bill which deserve further consideration.

1. Sec. 7 AS47.17.070
The definition of mental injury or neglect does not reflect allowances for the many cultural differences in the children of our state. "With due regard to his culture" is omitted at the conclusion of the definition.
2. Sec. 6 AS47.17.070(1)
This section of the bill is concerned with the types of reportable abuse and neglect. It does not include the sexual exploitation of children as a reportable form of child abuse. Child pornography is a growing national problem, and does exist in Alaska.
3. Sec. 47.10.142
Sexual abuse is not mentioned as grounds for taking emergency custody of a child by the Division of Social Services, although the other recognized forms of abuse and neglect are included. This restricts early intervention, and would most likely put the child and the family under greater pressure, if sexual abuse exists and no intervention is possible at the time of initial investigation by the Division.

The issues raised may seem insignificant. Those of us who must work within the prevailing helping system are aware that, in the best of situations, child abuse and neglect presents a complex set of problems to face with a family. Clearer definitions within the child protection statutes would be a valuable resource in providing services earlier to families in need.

If further background material is needed regarding this legislation, please feel free to contact the Center for assistance. Thank you again for your continued effort and support of this important legislation.

Sincerely,

Blanche

Blanche Brunk, Director
575 Ninth Avenue

Fairbanks, Alaska 99701

(907) 456-2800

January 21, 1981

Senator Charles H. Parr
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Charlie,

I urge your committee's favorable consideration of SB 89, amending the child protection laws in Alaska. This bill would strengthen mandatory reporting requirements by school personnel and foster and day care providers--- often the only contact points for a child who is being abused or neglected. The legal definitions of abuse and neglect would be broadened by this legislation, to include those emotional abuses which are as harmful to a child as physical ma treatment.

As a professional involved with families, I know that child abuse and its far reaching damage are significant problems in our state. SB 89 would make major contributions to earlier intervention and prevention of child abuse and neglect, making more likely the succe ful resolution of this complex problem.

Thank you for your support of and interest in this important legislation.

Sincerely,



Blanche Brunk, Director

FCPTF, INC. Resource Center For Parents & Children



January 28, 1981

Senator Charlie Parr
Pouch V, State Capitol
Juneau, Alaska 99811

Attention: Rocky Williams

Dear Rocky:

Enclosed are some background materials which may be helpful to you regarding SP 89, the child protection statutory changes.

Child Abuse & Neglect - State Reporting Laws is very recent, & gives an excellent national overview. The tables are most useful in pinpointing the strengths & weaknesses in the present Alaska Statute, & makes comparisons between states.

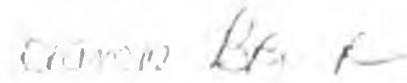
It might be helpful to include some of that information in the legislators packets, when the bill is before them in the Senate.

Although not so recent, Child Abuse & Neglect: Model Legislation for the States is also a good resource. The article on emotional abuse is one of the best & easy to read.

I appreciate your thoroughness in researching this particular matter, & hope we are able to be successful in getting the statute changed.

If I can be of further assistance, please feel free to contact me.

Sincerely,


Blanche Brunk, Director

BB:ees

Enclosures (as noted)

P.S. I am attempting to locate more of the orange booklets for distribution to key legislators.

SB 89

SENATE JOURNAL - PAGE 77- 2 1/15/81

SENATE BILL NO. 89 by Senators Parr, Fahrenkamp, Fischer
and Stimson, entitled:

"An Act amending the child protection
laws; and providing for an effective
date."

was read the first time and referred to the Health, Educa-
tion and Social Services Committee and the Finance Committee.

SB 89

SENATE JOURNAL - PAGE 506- 3 3/20/81

The Health, Education and Social Services Committee considered
SENATE BILL NO. 89 (amending the child protection laws) and
recommends it be replaced with CS FOR SENATE BILL NO. 89 (HESS)
and reports it back as follows: Senator Parr, Chairman and
Senators Stimson and Fischer signed "do pass". The committee
further attaches a zero fiscal note.

Senator Dankworthy, Co-Chairman of the Finance Committee
waived referral on SENATE BILL NO. 89 and the bill was
referred to the Rules Committee.

Rules CS - Monday

Senate approves measure to protect abused children

2/11/82
Anch. Daily News

The Associated Press

JUNEAU — The state Senate unanimously has approved a bill aimed at protecting children who are victims of sexual abuse or exploitation.

Sen. Charlie Parr, D-Fairbanks, who introduced the measure, called it "a big step forward." The bill (CSSB89 Rules am) would make several changes in current law.

The bill, approved by the Senate on Tuesday, authorizes the state Department of Health and Social Services to take emergency custody of children who have been sexually abused or exploited.

Under present law, the department may not take emergency custody of children who have been sexually abused unless their lives are in danger, Parr said.

The bill also expands the number of people required to report cases of child abuse and neglect — including both physical and sexual abuse — to state authorities. Under the bill, school administrative staff members would be required to report children who have been abused.

In addition, current law requires doctors, teachers, social workers, police and administrators of corrections institutions to report cases of child abuse.

Under Parr's bill, a person required to file a report of abuse or neglect who knowingly refuses to make a report would be guilty of a class B misdemeanor, which is punishable by up to six months in jail.

The bill also authorizes people who are required to report cases of child abuse or neglect to take photographs or make X-ray examinations, of the child without permission of the child's parents.

"This should give us better reporting," Parr said. "If the photos and X-rays are taken it should give us a better chance of showing the condition" of an abused child.

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Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

March 3, 1981

SENATE STATE AFFAIRS

COMMITTEE REPORT

ON

CSSB 90 ENTITLED "AN ACT RELATING TO PRIVACY AND PUBLIC INFORMATION; CHANGING RULE 65 OF THE ALASKA SUPREME COURT RULES OF CIVIL PROCEDURE; AND PROVIDING FOR AN EFFECTIVE DATE."

Committee Substitute Bill Summary

The committee substitute makes a number of substantive and technical changes to the original SB 90. The following changes should be noted:

- 1) The committee substitute permits a reduction or waiver of copying fees in the public interest or if the requester is indigent. Sec. 40.25.015(d).
- 2) The committee substitute allows a person to obtain 20 pages of a record copied without charge within any 24-hour period. Sec. 40.25.015(d).
- 3) The committee substitute specifies four "unusual circumstances" which allow the governmental unit additional time to produce the records. Sec. 40.25.020(e).
- 4) The committee substitute reduces the number of exemptions from the duty to make disclosure from 17 to 12. Sec. 40.25.030(a).
- 5) The committee substitute states that all records become public after they are 50 years old unless specifically exempted from disclosure by state statute. Sec. 40.25.030(c).
- 6) The committee substitute provides a mechanism to allow a person whose privacy interests may be invaded unwarrantedly by disclosure of a public record to present arguments against disclosure to the governmental unit. Sec. 40.25.030(b).

- 7) The committee substitute provides a mechanism whereby individuals can compel government to correct or amend incomplete or inaccurate information in records pertaining to them.
Sec. 40.25.060.

Background

The current statutes AS 09.25.110 and AS 09.25.120 addressing access to public records were adopted in 1962. AS 09.25.125 concerning enforcement and injunctive relief was added in 1975.

A bill relating to privacy and public information was first introduced in the 9th Legislature, 1st Session by the then Representative Parr. From first introduction in 1975 and throughout each subsequent legislative session, the proposed legislation received exhaustive study by standing committees of each house and Free-Conference committees.

SB 90 was introduced on January 15, 1981, and referred to the State Affairs and Judiciary Committees. A Senate State Affairs Committee hearing was held on January 29, 1981 (see attached minutes - Exhibit A) and an all-sites teleconference on February 5, 1981 (see attached minutes - Exhibit B). A mark-up session was held on Tuesday evening, February 17, 1981. Consistent with public testimony and the committee input, CSSB 90 was drafted.

It is the Committee's intent that CSSB 90, or a form thereof, be enacted by this legislative session.

Purpose of Committee Substitute SB 90

It is the intention that this legislation be interpreted and implemented in light of the policy that all records of governmental units are open to the public unless specifically exempted by provisions of this bill. The provisions exempting records should be interpreted in the narrowest possible sense, so that in cases of any doubt, the information should be made open to public inspection. The exclusions listed in the bill balance the sometimes conflicting rights of freedom of information and the right to privacy of the individual.

The committee substitute retains those sections of SB 90 that received virtually unanimous support during public testimony, including: (1) the prohibition against charging the public for

the costs of document searches; (2) the inclusion of municipalities within the coverage of the bill; and (3) the simplified injunctive relief provisions.

Major substantive changes to the original SB 90 include: (1) a reduction or waiver of copying fees in the public interest or if the requester is indigent; (2) allows a person to obtain 20 pages of a record copied without charge within any 24-hour period; (3) specifies four "unusual circumstances" which allow the governmental unit additional time to produce the records; (4) reduces the number of exemptions from the duty to make disclosure from 17 to 12 with the twelfth exemption exempting records from disclosure which would constitute an unjustifiable invasion of privacy; (6) all records become public after they are 50 years old unless specifically exempted from disclosure by state statute; (7) provides a mechanism to allow a person whose privacy interests may be invaded unwarrantedly by disclosure of a public record to present arguments against disclosure to the governmental unit; and (8) provides a mechanism whereby individuals can compel governmental units to correct or amend incomplete or inaccurate information in records pertaining to them.

It is the committee's desire that the Judiciary Committee consider the following when analyzing CSSB 90: whether medical records should be specifically exempted in light of the provision that all records become public after they are 50 years old and whether independent contractors paid with government funds should be included in the definition of governmental unit. Other concerns were the inclusion of original police entry records in the exemption section and whether there was a need to include a definition of "the right to privacy".

Section Analysis

Sec. 1.

Sec. 40.25.010. Specifies the Findings and Purpose.

Sec. 40.25.015. Provides that all records are open to inspection and copying, and provides for a uniform fee schedule which may be varied in the public interest or if the requester is indigent.

Sec. 40.25.020. Establishes the duties and procedures of a governmental unit to follow when a request for documents is made.

Sec. 40.25.030. Specifies the exemptions.

Sec. 40.25.040. Allows individuals to have access to records that pertain to them.

State Affairs Committee
Report on CSSB 90
Page Four

Sec. 40.25.060. Provides a mechanism whereby individuals can compel governmental units to correct or amend incomplete or inaccurate information in records pertaining to them.

Sec. 40.25.070. Establishes court procedures to require the governmental unit to release the records.

Sec. 40.25.080. Gives a civil cause of action against a person wrongfully withholding records.

Sec. 40.25.090. Definitions section.

Sec. 2 and 3. Amends existing law AS 44.62.310 entitled "Agency meetings public" to remove the authority of a municipality to hold executive sessions other than in accordance with state law and adds a new subsection dealing with the State open-meeting law.

Sec. 4. Changes Rule 65 of the Alaska Supreme Court Rules.

Sec. 5. Repeals the existing "open records" statutes.

Sec. 6. Provides for the effective date of July 1, 1981.



SEN. VIC FISCHER, CHAIR



SEN. BRADLEY



SEN. COLLETTA



SEN. ELIASON



SEN. STINSON



Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

Jan. 29, 1981

Behrends Bldg.

1:30 p.m.

First Floor

MEMBERS PRESENT

SENATOR FISCHER, CHAIRMAN
SENATOR BRADLEY
SENATOR COLLETTA

MEMBERS ABSENT

SENATOR ELIASON
SENATOR STIMSON

AGENDA: Senate Bill 90 "An Act relating to privacy and public information and changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure."

Chairman Fischer called the meeting to order and then requested testimony on Senate Bill 90. Eight persons testified on the bill (see attached sign-in sheet).

Senator Parr, prime sponsor of the legislation, outlined the provisions of the bill, from the opening general statement of policy on information to a detailed analysis of the exemptions described. With regard to the exemptions, Senator Parr suggested that there were two ways of grouping them for consideration: 1.) Alaska constitutional right to privacy, and 2.) public policy securing confidentiality for the general public benefit. The exemptions and definitions outlined in SB 90 were carefully covered by Senator Parr prior to more substantive discussion of the legislation. He cited the passage into law of the Federal legislation addressing freedom of information more than thirteen years ago as an example Alaska might follow. Senator Parr also stressed the importance of correctly balancing the people's right to privacy and the people's right to know. Although the legislation has been introduced four times since May of 1975, it has never passed, and the existing statutes remain vague, marked by insufficient definition. Sen. Parr responded to various questions about the language and intent of specific sections.

Bruce Horowitz, supervising attorney of Alaska Legal Services, provided a written proposal for amendment of SB 90. He presented the proposed amendments individually and expressed general support of the legislation.

Exhibit A

Barry Stern, representing the Dept. of Law, emphasized in his testimony that existing statutes addressing freedom of information are inadequate. He further remarked that the constitutional provision for a right to privacy frequently conflicts with the public's right to know. The concept of the right to privacy is left up to the agency to decide. Mr. Stern stressed the need for guidelines in determining the scope of a person's right to privacy. He also maintained that the exemptions section of the legislation is too specific, and agreed to transmit to the committee written suggested language to amend this section.

Elizabeth Cuadra, of the League of Women Voters of Alaska, gave brief testimony expressing support for SB 90 and for accessibility of records.

Patty Moriarty, of the Ombudsman's office, provided testimony from two perspectives: that of the Ombudsman's office, and that of the complainant seeking assistance from the Ombudsman's office. She read from the Ombudsman's report of Hawaii which bore the premise that information should be shared between the people and their elected representatives for decision-making purposes. Ms. Moriarty proposed language changes for specific sections of SB 90.

Earl Deater, of the Operating Engineers Union-302, testified in favor of SB 90, pointing out passage of such a measure would assist people in many professions in obtaining information.

Lee Sharp, attorney for the City and Borough of Juneau, provided testimony on the bill regarding the effect it would have on municipalities. Mr. Sharp maintained that local government should make decisions on how local records should be made available. He pointed out that additional costs would be created by the passage of SB 90 in terms of "search costs" and duplication costs. Mr. Sharp concluded his testimony with the statement that he agreed that public records should be made public, but that some things must rest at the local level.

Roland Shanks, of the Alaska Environmental Lobby, provided brief testimony in support of the bill and the intent behind it, noting that "public corporations" were not included in the list of people and agencies covered by the bill.

Chairman Fischer adjourned the meeting in light of the fact that scheduled time had expired.



Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Feb. 5, 1981

Capitol Building

1:30 p.m.

Room 118

MEMBERS PRESENT

SENATOR FISCHER, CHAIRMAN
SENATOR BRADLEY
SENATOR COLLETTA

MEMBERS ABSENT

SENATOR ELIASON
SENATOR STIMSON

AGENDA

All-sites teleconference on SB90 "An Act relating to privacy and public information; and changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure."

Chairman Fischer opened the meeting and introduced SB90. He also called for those testifying and any others to send in written comments by the end of next week.

Testimony was received from the following:

From Fairbanks:

Dean Gottearer, Task Force for
Professional Journalists
Box 74573
Fairbanks 99701

Susan Fischer
Society of Professional Journalists
Box 710
Fairbanks 99701

From Anchorage:

Howard Weaver
Daily News
Pouch 6616
Anchorage 99502

From Ketchikan:

Lew Williams, Editor
Ketchikan Daily News
501 Dock Street
Ketchikan 99901

Exhibit B

Feb. 5, 1981

Page 2

From Kodiak: Jon Newstrom
KMXI Radio
P. O. Box 484
Kodiak 99615

Deborah Nelson
Kodiak Daily Mirror
P. O. Box 1307
Kodiak 99615

From Homer: Annabel Lund
Managing Editor
Homer News
Box 254
Homer 99603

From Fairbanks: Scott Sterling
224 Nerland
Fairbanks 99701

Jamie Bryson
860B Yak Estates
Fairbanks 99701

From Sitka: Ray Medlin
Box 1339
Sitka 99835

From Skagway: Lucinda Hites
Box Three
Skagway 99840

From Soldotna: Steve Rinehart
The Peninsula Clarion
Box 1341
Kenai, Alaska 99611

From Anchorage: Bob Lohr
Rural Cap
327 Eagle St.
Anchorage

From Palmer/Wasilla: Mark Harris

From Haines: Leo Land
Box 122
Haines 99827

From Nome: Stanley Summers
KICY AM/FM
Box 820
Nome, Alaska 99762

Feb. 5, 1981

Page 3

From Fairbanks: Kent Sturgis
Box 710
Fairbanks 99701

From Anchorage: Kay Fanning
Alaska Newspaper Assoc. & Daily News
Pouch 6616
Anchorage 99502

Ted Berns, Attorney
Mun. of Anchorage
Pouch 6-650
Anchorage 99501

From Fairbanks: Tom Knapp
Box 970
Fairbanks 99701

Bruce Wammack
913 Noble St.
Fairbanks 99701

From Anchorage: Matt Zencey
AKPIRG
Box 1093
Anchorage 99510

Mark Beltz
343 W. 12th Av.
Anchorage 99501

From Ketchikan: Christine M
KINB Radio
Ketchikan 99901

Their comments are summarized as follows:

All testimony was in favor of the bill and strongly endorsed its passage. The majority felt that a definition of "right of privacy" needed to be established, that the question of fees for documents be looked at (it should not be a barrier), and that local municipalities and boroughs should not be able to opt out. Other testimony addressed the problem of tampering with public records and the problems that would occur if

Feb. 5, 1981

Page 4

is original entry police records were exempt from disclosure. Further testimony touched on difficulties with "sexist pronouns" in the language of the bill and the inclusion of state employees' performance records as public documents.

Chairman Fischer concluded the teleconference thanking participants for their constructive comments and requested written testimony be sent to the Senate State Affairs Committee by the end of next week.



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT (907) 586-3300

February 3, 1981

The Honorable Victor Fischer
Chairman, Senate State Affairs Committee
Alaska State Legislature
Pouch V State Capitol Building
Juneau, Alaska 99811

FILE: Legislature--1981

SUBJECT: Senate Bill 90
(Privacy and Public Information Act)

Dear Senator Fischer:

A bill dealing with privacy and public information has been before the Legislature for several years. Senate Bill 90 is a refinement of those prior unsuccessful attempts. The positions expressed in this letter are those which the Assembly of the City and Borough of Juneau, acting through its Legislative Committee, has adopted in the past and which the committee has not changed this year.

On page 2, beginning at line 19, charges for duplication of public records is limited to recovery of direct cost of duplication. This cost, very often, is the least of the costs involved in providing a copy of a public record. Search cost can be substantial, particularly where the requested record has been moved to an inactive file. It would seem to be questionable public policy to require the tax payers of the state or municipality to assume the burden of searching and reproducing a record when the production will not benefit the general tax paying public, but is for the benefit of the person seeking the record. While the state may have sufficient income to assume this burden, municipalities must still levy taxes to support their operations. For that reason, we request that this section of the bill be amended to permit municipalities to establish a charge for documents which does not exceed the actual cost of producing and duplicating the documents. The federal Freedom of Information Act permits the federal government to recover such costs and this appears to be the more appropriate public policy. The burden of satisfying someone's idle curiosity and of producing records which are solely or primarily for the benefit of the person requesting them should not be borne by the general tax payer but should be borne by the person making the request.

On page 6, lines 13 through 15, the bill provides that upon a request for a public record, the governmental unit must produce the record immediately. This varies considerably from the federal Freedom of Information Act which allows ten days for the agency to determine whether the record is to be produced. Requiring the immediate production of a record places the establishment of the priority of the conduct of the government's business in the hands of the individual requesting a record. If "immediately" is to have any meaning, it must mean "now" and not "as soon as I can get to it." If the custodian of a record is involved in a time-

critical project, the language of the bill would require the custodian to set aside the project in order to search for the record. Not only does record search and production take priority over all other government business, it does not allow a reasonable period of time for the custodian to seek legal advice as to whether a particular record is a public record or falls under one of the exemptions. The ten days allowed in the federal Freedom of Information Act accommodates both of these considerations. We request that the approach taken in the federal Freedom of Information Act be followed in this bill.

Section 3 of the bill (beginning at line 28 on page 9) would repeal the present authority of a state or local government public body to go into executive session to discuss matters which are required or authorized by federal law to be discussed in executive session. More importantly, this section of the bill would repeal the present authority of a municipality to establish by charter or ordinance additional subjects which may be discussed in executive session. If there is no charter provision or ordinance of any municipality in the state which appears to create an abuse of this authority, one can certainly question the need for the removal of this authority. Even if one were able to point to a charter provision which was believed to be an abuse, it should also be remembered that the charter is something which was adopted by the citizens of the municipality. If one is able to point to an ordinance which is believed to be an abuse, it should be remembered that the ordinance can be reached by a referendum. Because we are not aware of any municipality having abused this authority under the present state law and because both mechanisms for the creation of additional subjects for executive session can be reached by the electorate of that municipality, we recommend that Section 3 of the bill be deleted.

Parenthetically, I would point out that in analyzing the deletion of Section 3, one should be careful to distinguish between the authority of a municipality to establish additional subjects for executive session by charter or ordinance on the one hand and the actual use of an executive session for purposes which are not authorized either by law, charter, or ordinance. For example, the fact that a committee of the Legislature has gone into executive session for a purpose not authorized under the Open Meetings Law has no bearing on the fact that the Legislature has authority to amend the statute to provide additional subjects which may be discussed in executive session. Similarly, the fact that the city council may have gone into executive session for some unauthorized purpose, should have no bearing on the council's authority to establish, by ordinance, an additional subject which may be discussed in executive session.

The version of this bill which was adopted by the Senate last year excluded municipalities from the operation of the bill. The Senate State Affairs Committee version of the bill removed municipalities from the bill. It appeared to be the consensus of that committee that local records were a local problem to be dealt with at the local level without state intrusion. The City and Borough of Juneau supports the philosophy that the state should maximize local authority to deal with local problems, particularly for home rule municipalities. For this reason, the City and Borough of Juneau supports the approach taken by the Senate and the Senate State Affairs Committee last session. Just as, I am sure, the Legislature believes that the State of Alaska is in the best position vis-a-vis the federal government to determine which of the State's records should be protected and which should be made public, municipalities

are likewise in the best position to determine which of their records should be protected and which should be made public. It is the municipality, not the State of Alaska, which knows what types of records it generates or comes into possession of. The Legislature has, in the past, demonstrated a total indifference to the need for municipalities to protect certain of their records. One will search the Alaska statutes in vain in an attempt to find a statute dealing specifically with protected municipal records. In that search, however, one will find numerous exceptions for records kept by specific state agencies. Even though municipalities may keep identical records, the Legislature has never seen fit to provide protection for such records in the hands of a municipality. When the the Legislature establishes a program which will involve records which should be protected, it is in a position to address the public records problems at the time it creates the program. Under Senate Bill 90, a municipality would not have that option. It would have to wait to create its program until it had authority from the legislature to protect the records the program would generate. For the foregoing reasons, we request that Senate Bill 90 be amended to eliminate its coverage of municipalities in the same manner as was done in the bill which was adopted by the Senate last year.

While we believe that the approach requested in the preceding paragraph is the better approach, we also recognize that many of the concerns expressed in that paragraph could also be met by an amendment which would provide for an additional exception at the end of the present 17 exceptions in the bill. The 18th exception would be added after line 18 on page 5 and would read substantially as follows:

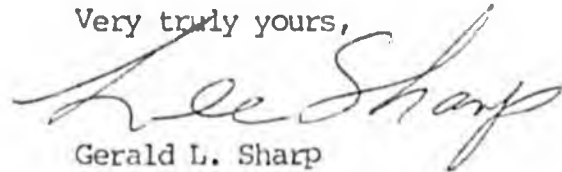
- (18) Records of a political subdivision which have been specifically declared by ordinance or charter to be protected records.

If this approach is taken, the provisions of the bill would be applicable to municipalities but the municipality would, nevertheless, retain authority to deal with those records of the municipality which the assembly or council determines should be protected. The creation of a protected class of records by the municipality would have to be accomplished through the ordinance process which involves notice, public hearings, and public input. As a minimum, municipalities should be given the opportunity to deal with their own records in this fashion. If at some time in the future the Legislature determines that municipalities in general have gone "too far" in protecting their records, it can deal with that problem at that time. In the meantime, the Legislature should refrain from encroaching on local autonomy any more than is absolutely necessary.

There are a number of problems which will exist for public servants who are charged with administering public records under this bill. The most severe is the lack of any definition or standards by which one can gauge whether or not the release of a record would constitute either an infringement upon a person's right to privacy or an unjustifiable intrusion into a person's right of privacy. The bill uses both terms but defines neither. Also, we find no clue as to why these different terms are used. Further, the use of the word "unjustifiable" to modify the phrase implies that the public official is to balance the individual's right of privacy against some other unstated consideration. Too much is at stake to place this burden upon a public employee without additional definitions, standards, or guidance. If the Legislature prescribes a balancing test to determine whether records should be disclosed or not, it, rather than the courts, should provide the standards under which the balancing will take place.

I hope you will give serious consideration to the foregoing comments. If you have any questions, please do not hesitate to call me.

Very truly yours,



Gerald L. Sharp
City-Borough Attorney

GLS:phl

cc: Mike J. Colletta
Brad Bradley
Richard I. Eliason
Terry Stimson
Assembly
Ginny Chitwood, Alaska
Municipal League



THE JUDITH GROUP INC.

P. O. Box 2334

Soldotna, AK 99669

PHONE: 283-4359

February 8, 1981

Senator V. Fischer
Chairman
Senate State Affairs Committee
Pouch V
Juneau, Ak. 99811

Dear Mr. Chairman,

In listening to the testimony on SB 90, February 5, 1981 via Teleconference, we were struck by the similarity of frustration levels to our own experience. Enclosed are copies of correspondence with:

Department of Health & Social Services.....A. Holmburg, Director March 12/79

At the time of the letter to Mr. Holmburg the Judith Group was involved with the Alaskan Family Violence Project, Grant #78-DF-AX-0107 from Law Enforcement Assistance Association awarded to the Alaska Department of Health & Social Services/Ak. Family Violence Program/Judith Group. Portion of the Grant Objectives as they involved the Judith Group included.

Mr. Holmburgs reply.....April 3/79

Response to Mr. Tom Janadlo telephone request (this request stressed need for immediate response on agency knowledge of incest. Not to include Judith Groups stats; We as yet have to have a response from anyone at Division of Social Services on our letter.....April 4/79

Individual testimony of my own to the White House Conference on Families, Ak. From it is apparent that until the Legislative Auditor, Mr. Wilkinson published there was no way the Judith Group was able to secure any information, stats, whatever. The HSS Statistical report is not comprehensive enough.

All of the questions addressed to Mr. Holmburg should have been answered. According to our understanding the answers were mandated by law; Federal or State. This information should have been available. Unfortunately, Mr. Wilkersons report are mandated only every 3rd. year. The question of due process are very interesting.

Thank you,
Joan Bennett Schrader
Joan Bennett Schrader, Secretary
The Judith Group, Inc.

cc: Sen. C. Parr Sponsor
B. Bradley
R. Elinson
T. Stimson
M. Colletta

LOCALE

OBJECTIVES

DATA COLLECTED

MEASURES OF SUCCESS

Kenai/
Women's Resource
Center

- number and case histories of post-crisis assistance
- number of victims transported to Anchorage AWAIC
- follow up evaluation of victims who remain in Kenai

Kenai/
Judith Group

To provide intra-family violence victim assistance, public information, and education

To research, analyze and document the incidence of incest in one Alaskan community and to collect, develop, and distribute information and materials on incest throughout the state.

- number of volunteer hours
- report on incidence of incest in Kenai Peninsula including:
 - number reported to police
 - number reported to hospitals
 - number reported to social service agencies
 - number which come to attention of Women's Resource Center
 - comparison to available national statistics
 - actions taken in response to reports
 - profiles of victims and offenders
- random surveys of public opinion to measure awareness, concerns, and attitudes regarding incest
- process for collecting and analyzing data concerning repeat rates of known offenders, relation to other crimes, and relation to alcohol will be developed

- documentation that incest is a problem which may be used in program planning
- an increase in public awareness of incest, consequences, and services available for victims and offender

March 12, 1979
Box 2334
Soldotna, Alaska 99669

Mr. Arthur C. Holmburg, Director
Department of Health and Social Services
Pouch H O 5
Juneau, Alaska 99811

Dear Mr. Holmburg,

On the 7th of March The Judith Group spoke with Ms. Faye Guthrie, Regional Office Manager, Department of Health and Social Services, in her Anchorage Office. As a result of that meeting we realize that there are many needs we, as a group have.

The most crucial need is to know what is the disposition of those children who are the victims of incest. When we report a case to your office (thru our local workers) it is as if these children no longer exist for us. Now, we understand the need for confidential records, but, there must be some method of finding out what care is taken of these children.

Are there case plans for these children, whether they remain in their homes or are placed out of their homes?

Is there regular follow-up?

Are there preventative services available to the family on a monitored basis?

What reviews are mandated; how regular?

Can the Judith Group expect to gain the following information from your data system?

Date of birth, sex, age, race and religion.

Family structure, including nuclear and extended family.....and here we view it as critical to know the length of time a step-parent or guardian relationship has existed.

Any handicapped condition, physical, emotional, educational, has the child been evaluated and what free, special services have been provided.

Has the child entered care (court order or voluntary placement) and the nature of the custody agreement. Was the victim of incest or sexual abuse provided with a attorney to ensure compliance with their right to the same interest the child in a divorce case would have. The nature of the custody agreement. Is there monitoring, on a continual basis, of the offender, if the offender remains in the home with the child.

Geographic locations upon entry into care.

How placement is funded. Where placement (in the child's home area)

Reason for placement (here we would need to know—if incest or sexual abuse has occurred, what "acting out" the child has done.

Date and type of initial placement

Services provided to child and family prior to placement.

during prior to Services provided to child and family (whether foster family, guardian, etc) placement. Here we want to be able to pick up on the incidence of incest as it is defined in the Alaska Revised Criminal Code Commentary, Section 11.41.450 INCEST and also Section 11.41.430, subsection (a) (1). Section 11.41.410 Subsection (a) (4).

Placement status of siblings.

Dispositional goal for the child and time by which the goal should be attained.

Other agencies providing to or having responsibility for the child and the family....what monitoring is done on these agencies; ex: if the therapy of the child and the offender is carried on by a Freudian analyst.

Do the records of case transactions include:

dates and changes in legal status.

date, type and location of subsequent placements. Reason for change.

dates of case reviews.

dates and description of outcomes of dispositional reviews.

dates and description of services provided to the child and family by the responsible agency and other agencies with which the child and family has contact. In this area include foster or guardian.

dates of visits between agency and child, agency and natural parents, (and here it would be helpful to know if the natural parents are separated (living apart) is the other parent informed of the issue and the child's placement) agency and foster parents, and child and natural parents, extended family in the case of no natural parents available.

date and termination of parental rights.

barriers to adoption when parental rights are terminated (here again did the child have a attorney to protect his/her rights....property-wise as well as otherwise).

date of discharge, and discharge status (e.g. with natural parents or relatives, adoptive placement, transferred to another agency; has reached majority, death, marriage, other (here: what is other)

whether child was adopted with the assistance of a subsidy and by whom (foster parents, relatives, others, were relatives informed of the adoption prior if foster parents are the party who does adopt).

dates child enters placement thru any agency.

when the offender is involved with the court system as a offender.

what avenues of complaints does the child have? The family have?

We are attempting to work up a reporting sheet for police, physician, crisis workers, etc. and we must have some idea of what your data will reveal to mesh these reporting sheets with your records.

Was the offender thru the court system or involved only in therapy, ^{what} monitoring?
and What monitoring is done on out-of-state placement or adoption.

Thank you very much for your time and effort on this matter. It is important to The Judith Group that we have this information. There was a meeting of the various law enforcement agencies in Juneau in February and we have requested copies of that meeting. They have not arrived as yet but we will wait patiently, I guess. What else is new.

Anyway, thank you in advance. Hopefully everything we have asked you about is already either in your data system or is being programmed in.

Next, how do we go about receiving this data?

Sincerely,

Jean Bennett Schrader
Jean Bennett Schrader, Sec.
The Judith Group

cc; Faye Gutherie
Dr. McGinnis
Kenai-Soldotna /RC
Kenai Social Service Office
Alaska Family Violence Program; S. Lederman
URSA
All Advocates
Richard C. Hacker
Commissioner H. Boime

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Pouch H-05
Juneau, Alaska 99811

April 3, 1979

Ms. Joan Bennett Schrader
Secretary
The Judith Group
Box 2334
Soldotna, Alaska 99669

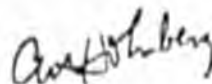
Dear Ms. Schrader:

We appreciate your concern for victims of incest who are referred to the Division of Social Services. The primary concern of all social service workers within the Division is to protect any child who is in danger of harm in his living situation. Therefore, when referral is received the social service worker investigates as is needed to assess the immediate danger to the child. If a child is found to be in need of removal from his home, he will be placed in a foster family. The worker develops a specific case plan, given the facts of the situation, which is based at efforts to rehabilitate and reunite the family. Workers provide services to children in foster care as well as to the families of the children.

In cases where removal of a child from his home is not required but there is need for protective intervention, the worker's efforts will be focused at working with the family to improve the situation which brought them to the agency's attention. Case reviews occur every three months to insure that all needed services are being brought to bear to remediate the situation.

For reasons of confidentiality, we cannot provide specific details on cases handled by our workers. Information can only be shared on an aggregate basis, as through the Monthly Statistical Report produced by the Division of Social Services. As requested, we are enclosing a copy of the latest Monthly Statistical Report and will be happy to add you to the mailing list for future copies.

Sincerely,



Art Holmberg
Director

Enclosure

100-2 4/18/79
jls

March 18, 1980 Soldotna Hearing on the
White House Conference on Families.

I am Joan Bennett Schrader and I am testifying on my own behalf.

As a member of this community I have grave concern over the follow-thru on the care our youngsters in the Corrections Institutions and Foster Homes receive.

To secure any information on what happens to them is extremely difficult. The reports made available by the DOC are not as comprehensive as I should like to see.

My first recommendation is to have

Easily accessible information on the placement of these young people. I am not advocating identifiable information but rather the knowledge communities should have on ~~the~~ the placement be in foster-care, that a worker has formulated a case plan, that the worker is in contact on a monthly basis with the young person. Further-more, that monthly personal reports, where possible, be made to the family of the young person by the same worker or in the case where one worker cannot handle this that the DOC workers are able to assure the family of some worker in the DOC has seen and spoken with the young person. That the worker be identified by name and a phone number or address be made available to the family.

In the Performance Review of the Department of Health & Social Services, Juvenile Confinement Programs, dated September 28, 1980 and signed by Gerald Wilkerson, CPA. ~~xxxx~~ on behalf of the Legislative Auditor, Division of Legislative Audit, page 10, listed under

D. Juvenile Treatment Plan

60% of the Department and child care facilities juvenile files ~~xxxx~~ tested did not contain a detailed treatment plan for the juvenile.

In order to assure that juvenile needs are met while in institutional care, a thorough evaluation of needs and a method of meeting these needs should be prepared by either the Department's caseworker or the institutions staff. If the plan is ~~developed~~ developed by the institution, it should be subject to review by the Department's caseworker."

Page 11

"Although DOC has a formal decision process for placing juveniles in child care facilities, 57% of the DOC files tested did not indicate how the placement decision was reached. AT DSS 54% of the tested files did not indicate the basis for the placement decision.

Although consideration of all alternative placements is necessary to assure the best possible care by the juveniles. The alternatives considered and the reasons for the final selection should be documented to ensure juveniles receive due process."

F. Caseworker contact with the juvenile

~~67%~~

"67% of the Department and child care facility files tested indicated the Department's caseworker had very limited, if any, contact with juveniles after placement. Also, DOC practice precludes probation officer involvement with juveniles placed at McLaughlin Youth Center."

G. Evaluation of the juveniles' progress

"Half of the DOC and 30% of the DSS files tested did not contain any institutional evaluation of the juvenile. Additionally 75% and 37% of the DOC and DSS files, respectively, did not contain an evaluation of the juvenile by the Department's caseworker. Testing of the institutions files indicated 18% of the juveniles had not been evaluated. Another 44% ~~contained~~ of the files contained evaluations which did not address the progress of the juvenile. Most of those only addressed the juvenile's status without relating the status to any identifiable problems."

Page 12

"Our testing found that 76% of the cases reviewed did not indicate regular progress reports were sent to parents. The Department should forward copies of all evaluations to the juveniles' parents including any necessary explanations or comments."

end of quotes from evaluation
The above are only some of the problems with DSS and DOC. I believe that communities should be informed on what the DOC and DSS are doing with children and young people.

We do have a right to information from them and it should not take a copy of the auditor's report to finally enable us to put our finger on what is happening to these children.

Last year a request was placed before the DSS, Juneau, for information on what happens to children who are within the child care system.

They were asked.....

Are there case plans for these children, whether they remain in their homes or are placed out of their homes?

Is there regular follow-up?

Are there preventative services available to the family on a monitored basis? (This is the case of child abuse/neglect)

What reviews are mandated? How regular?

Can the following information be gained from your ~~file~~ data system.....

Date of birth, sex, age, race religion.

Family structure, including nuclear and extended family; length

of time a step-parent or guardianship relation has existed?

Any handicapped condition, physical, emotional, educational.

Has the child been evaluated and what free, special services have been provided?

Has the child enter Care (court order or voluntary placement) and the nature of the custody agreement. Was the victim of incest or sexual abuse provided with a attorney to insure compliance with their right to the same interest the child in a divorce case would have? The nature of the custody agreement. Is there monitoring? On a continual basis? Of the offender if the offender remains within the home with the child?

How placement is funded. Where placement (foster care) in the child's home area.

Reason for placement of child. If incest or sexual abuse has occurred what acting out the child has done.

Date and type of initial placement.

Services provided to the child and family prior to the placement

Services provided to the child and family (whether foster family, guardian, etc.) during placement. Placement status of siblings.

Dispositional goal of child and date by which the goal should be attained.

Other agencies provided to or having responsibility for the child and family, what monitoring is done on these agencies?

Do the records of case transactions include:

dates and changes in legal status
date, type and location of subsequent placements. Reason for the change.

Dates of case reviews.

Dates and ~~description~~ description of outcomes of dispositional reviews.

Dates of visits between child and agency, natural parents and agency. Here it would be helpful to know if the natural parent are separated, (living apart) is the other parent informed of the issue and the child's placement? Visits between foster parent and agency. Between child and natural parents, child and extended family in the case no natural parents are available.

Date of termination of parental rights.

Barriers to adoption when parental rights are terminated, did an attorney protect the child's rights, property-wise as well as other-wise?

Page four

Date of discharge and discharge status. With whom? Natural parents, foster parents, relatives, adoption placement, transferred to another agency, reached majority, death, marriage, other what is other?

Whether child was adopted with assistance of subsidy? By whom? (foster, relatives, others?) Were relatives informed of the adopt prior if foster parents or others are the party who dom adopt.

Dates child enters placement thru any agency.

Is the offender in cases of child abuse, sexual abuse, involved with the court? As an offender? How?

What avenues of complaint does the child have? The family have?

If the offender is involved in the court system is it xx by therapy, monitoring done....what and by whom?

What monitoring is done in out of state placement?

These were questions placed before the DSS a year ago and for reasons of confidentiality they were not answered. I believe we have a right to this information. On a ~~confidential~~ basis only, not on individual cases. Everything asked should have been available to any person. It was not then, and after reading the Auditors report, I can understand why.

In order for community members to support a reasonable and useful program for aid to children and families, records must be kept.

My reccommendation would be for the DSS and DJ to be directed to keep them and to make their data system have spaces for the questions they were asked.

Thank you for listening.

Respectfully submitted,

Jean Bennett Schrader

Jean Bennett Schrader
P.O. Box 1264
Kenai, Alaska 99611

The Judith Group, Inc.
Box 2334
Soldotna, Alaska 99669
April 4, 1979

Division of Social Service
400 Gambell
Anchorage, Alaska 99501

Attention: Tom Janidlo:

Dear Mr. Janidlo,

The following are the population resolutions from the Kenai Peninsula Borough for this area of the Borough.

The City of Kenai	4374
The City of Soldotna	2368
Sterling	1374
Ninilchik	470

Because of the scarcity of time statistics for the Homer and Seward areas, with one exception, are not included. The term Minor used here includes all up to 18 yr

From the Soldotna Police	(1977-78)	No involvement of Minors in any crime of a sexual nature. (as victim)
Alaska State Police (Kenai-Soldotna area)	(1978)	No involvement of a Minor in any crime of a sexual nature. (as victim)
Kenai City Police	(1977-78)	Four (4) to six (6) separate incidents during 1977 - 78. There are no figures for how many children were involved in each incident. To secure more stats on this would necessitate a "hand search" of over eight (8) thousand cases. The Kenai Police do not have the staff need for such a process. The 4-6 cases were Child Molestation.
Seward City Police	(1978)	One (1) case of incest (Female) that resulted in Court Action, not on the incest related area, but on a "Contributing To The Delinquency of a Minor" by others. This matter was reported as required by Law, to the Social Service.

District Attorney Office (Kenai)	1977-78 to end of March	Cases reaching formal stage Lewd & Lascivious Three (3) Statutory Rape Two (2) Rape (possible Minor Involvement) no way to tell from reports Four (4) Contrib. Del. of a Minor Three (3) Felony (Definition) Ten (10) Misdemeanor (no way to know if there were sex involvement) Office Contacts Two (2) sexual involvement (alleged)
Social Service Kenai Office	1977-78	Seventeen (17) alleged incest cases, Female One (1) sent Prosecutors Office.

Tom, you will appreciate the hurry that this involved and that had we more time we (The Judith Group) would have had all of these reports much more comprehensive.

Hope this will assist you and let us know what happens.

Sincerely,

Joan Bennett Schrader, Sec.
The Judith Group

cc; Juv. Intake Officer (Kenai)	Alaska State Police (Soldotna)
Social Service (Kenai)	Soldotna Police
Kenai Police	Division of Corrections (Kenai)
Kenai Police	Central Peninsula Mental Health
Kenai Care Center	Kenai Peninsula School District (B. Thoschner)
District Attorneys (Kenai)	Alaska Court System (Kenai)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC - STATE CAPITOL
JUNEAU, ALASKA 99811

February 6, 1981

The Honorable Vic Fischer
Chairman, Senate State Affairs Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: SB 90

Dear Senator Fischer:

At the January 29, 1981 meeting of the Senate State Affairs Committee you requested that I provide the Committee with proposed amendments to SB 90, An Act relating to privacy and public information. Additionally, you requested that I incorporate as many suggestions for amendments that were raised during public testimony that would be consistent with the administration's proposed procedural regulations on public records and the general approach to the subject adopted by the Department of Law after consulting with other state agencies.

To this end, I have drafted and enclosed for your Committee's consideration a proposed committee substitute for SB 90. Additionally, I have prepared a draft of commentary to accompany the legislation. The commentary should naturally be expanded and revised to provide evidence of legislative intent as the bill itself is revised. The draft commentary highlights the differences between the proposed committee substitute and SB 90.

While the proposed committee substitute makes a number of substantive and technical changes to SB 90, the following changes should be noted:

1. The proposed committee substitute permits a reduction or waiver of copying fees in the public interest, consistent with public testimony and the administration's proposed regulations on the subject. Sec. 40.25.015(d).
2. The proposed committee substitute allows a person to obtain 20 pages of a record copied without charge within any 24-hour period, consistent with public testimony and the administration's proposed regulations on the subject. Sec. 40.25.015(d).

3. The proposed committee substitute specifies a reasonable time frame to permit a governmental unit to search for and locate a requested record and to determine whether an exemption to disclosure applies. This approach is consistent with the administration's proposed regulations on the subject, prior versions of the bill, and the federal act. Sec. 40.25.020.
4. The proposed committee substitute reduces the number of exemptions from the duty to make disclosure from 17 to 12. This approach is consistent with general public testimony on the bill. Sec. 40.25.030(a).
5. The proposed committee substitute specifies guidelines that are to be used by government in determining whether disclosure of a particular record would constitute an unwarranted invasion of privacy. Though not specifically defining the "right to privacy", the guidelines are consistent with public testimony that has requested clarification on this issue. Sec. 40.25.030(b).
6. The proposed committee substitute provides a mechanism to allow a person whose privacy interests may be invaded unwarrantedly by disclosure of a public record to present arguments against disclosure to the governmental unit. Sec. 40.25.030(c).
7. The proposed committee substitute provides a mechanism whereby individuals can compel government to correct or amend incomplete or innaccurate information in records pertaining to them. Sec. 40.25.060.

It also should be noted that the proposed committee substitute retains those sections of SB 90 that received virtually unanimous support during public testimony, including: (1) the prohibition against charging the public for the costs of document searches; (2) the inclusion of municipalities within the coverage of the bill; and (3) the simplified injunctive relief provisions.

There is likely to be some disagreement as to several of the changes made by the proposed committee substitute. Most notably, employee personnel evaluations and the names of crime victims are exempt from public disclosure under the proposed committee substitute. However, these relatively minor areas of disagreement should not detract from the general consensus that has developed on the need for legislation on the subject and the significant areas of agreement among all proposals.

I will, of course, be available to discuss this matter further with you at your convenience and to answer any questions that the proposed committee substitute may raise. In the meantime, I look forward to working with the committee during mark-up of SB 90. I have taken the liberty of copying Senator Parr with this letter, the proposed committee substitute and the draft commentary, as I know that as the bill's primary sponsor he will take particular interest in reviewing the changes made to SB 90 by the proposed committee substitute.

Very truly yours,

WILSON L. CONDON
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By: 

Barry Jeffrey Stern
Assistant Attorney General

BJS:dm

cc: The Honorable Charles H. Parr
Alaska State Senate

Wilson L. Condon
Attorney General

Jerry Reinwand
Executive Assistant to Governor

Keith Specking
Legislative Assistant

Art Peterson
Assistant Attorney General



CITY OF NOME

P.O. BOX 281 - NOME, ALASKA 99762
TELEPHONE (907) 443-5242

February 11, 1981

Senator Vic Fischer, Chairman
Senate State Affairs Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

I am writing you about 2 bills you are currently considering. These are SB90 and SB153.

SB90 might open up government, but would be harmful in the process. Executive sessions are a must to insure that the legal & personnel aspects of governments are not endangered. This is especially true in smaller communities where it is difficult to keep anything "private".


The City's personnel records must also be closed. If they become open records, then very little will be put in them for reference purposes and the general administration of the personnel function.

While it might seem simple or easy for larger communities to produce records on request, smaller ones with only one or two employees in the clerk's office can't comply in that fashion. Many records are stored away in boxes and old files and are not easily accessible.

Regarding SB153, the City of Nome is presently in court with the Methodist, Lutheran and Catholic churches over similar issues. We have 14 churches in Nome, almost all of them in "missionary status". They have had a great deal of their land and property exempt until recently when the City said that we couldn't afford it any longer. In 1978, this exempt property was valued at \$2,300,000. That was when our total real property was \$29,000,000. If anything should be done to the statutes regarding non-profit religious property, it should be to clarify and strengthen them.

Thank you for the opportunity to comment.

Sincerely,


Ivan L. Widom
City Manager

cc: Mayor & City Council
Bob Hicks

CITY OF SEWARD



P. O. BOX 337
SEWARD, ALASKA 99664
2/11/81

CITY MANAGER	224.5214
COMPTROLLER	224.5216
INFORMATION	224.5215
CITY POLICE	224.5201

State Affairs Committee
Pouch V
Juneau, Ak 99811

Dear Mr. Chairman:

I am presenting written testimony concerning the Privacy and Public Information Act. If this bill passes, next year you will be taking more testimony on what to do about the great apathy of witnesses to crimes. Most people will not be cooperating with police if they are aware that their names, addresses and other personal information can be given to the public. We will be unable to protect any witness that does not come under the heading of "confidential informant."

My second concern is this: Will the public be made aware that they will be paying additional thousands of dollars a year to staff a governmental unit to produce these records in each community, since they will be charged only "direct" costs such as copy fees, etc.

Who will be making the public aware of what this bill provides? Any informant of any crime will no longer have any right to privacy, except during investigations. Unlike the news media, we do not have a conflict of interest issue here, except that we would like to protect the people from testifying to police under any air of vendetta that this bill will harbor.

Sincerely,

Louis A. Bencardino, Chief
Seward Police Department

alaska
state
hospital
association

319 Seward St., Juneau, Alaska 99801 (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

President
Sister Barbara Moore
Ketchikan General Hospital
Ketchikan

February 17, 1981

President Elect
Tom Mingen
Fairbanks Memorial Hospital
Fairbanks

Secretary/Treasurer
Ron Pavellak
Alaska Hospital Medical
Center
Anchorage

The Honorable Charlie Parr
Alaska State Senate
Pouch V, State Capitol Building
Juneau, Alaska 99811

Immediate Past President
- Gamosh
Providence Hospital
Anchorage

Dear Senator Parr:

Executive Director
Cennis L. Devitt
Juneau

The Alaska State Hospital Association has reviewed Senate Bill 90 and recommends that the following amendments be adopted.

1. Page 3 Lines 13-18

The exemption found in Subsection (6) should include patient financial information and the reference to autopsy reports ought to be moved from this section to a separate section.

Rational: a) Patient financial data while not part of a medical record, remains personal data about a patient, not the facility and as such should be protected.

b) Autopsy reports should be accessible when a court has determined the need for an inquest pursuant to AS 12.65.020. A requirement that autopsy reports should be public records simply because the person had not recently seen a physician, seems to serve no apparent public good.

2. Page 5 Lines 19-20

Subsection (f) should include an exemption for medical records and read as follows:

(f) Unless specifically exempted from disclosure by statute, all records except those specified under (c) of this section, become public after they are 20 years old.

February 17, 1981
The Honorable Charlie Parr
Page two

Rational: Patient medical records are private and ought to be disclosed only at the direction of the person subject to the record.

3. Page 6 Lines 3-7

Subsection (i) ought to be rewritten to include only managerial positions where the person has discretionary power over the operation of the entity and the reference to job performance and ability to perform the job ought to be struck.

Rational: Governmental employees ought not be treated differently than non-governmental employees unless there is a specific public good to be served. We can see no good and potential exposure to harassment by the disclosure of the compensation of a cook, janitor, clerk, nurse or other non-management personnel. The references to job review and ability to perform is a type of information exempted under (3)-(8) of Section .015 and as such ought to be protected for public employees as well.

Thank you for your consideration of these items. We will be happy to respond to any questions you may have.

Sincerely,


Dennis L. DeWitt
Executive Director

DLD/b

cc: Senator Vic Fischer

Work Draft

COMMENTS ON SB 90 entitled "An Act relating to privacy and public information; and changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure."

Page 1 - No suggested changes

Page 2

line 16 - add the words "in person" (2 comments)

line 17 - add "The request can be made verbally or in writing."

beginning line 19 through 22 - a fee should be charged for searching for the records

bill should permit municipalities to establish a charge for documents which does not exceed the actual cost of producing and duplicating the documents.

establish a uniform fee schedule similar to the regs proposed by the governor. - 20 pages free within a 24 hour period

Less than 100 copies free - Commissioner of Administration shall by regulation provide a method by which indigent persons may secure information without payment of fees.

Fee should be waived in the public interest.

Fees should not be used to discourage the public

Fees currently charged are prohibitive.

line 25 - add federal law or regulation

add "or required to be kept confidential by federal law or regulation"

Page 3

lines 19 through 21 - Include "applicants"; expand social services to include public benefits

lines 22 through 25 - exemption too broad; should be deleted (2 comments)

Page 4

lines 5 through 8 - Who decides what are trade secrets, etc?

lines 9 through 10 - Current driver's manual contains sample questions which are in some cases, actual questions on drivers license test.

line 11 - "intelligence" needs to be defined.

Excludes those records prepared by a police officer at the time the original action is taken.

Excludes original entry police records - doesn't allow the press to be a watchdog to see that police do not violate civil rights.

Do not alter section; must be read in tandem with page 6, line 8 through 12.

Page 5

lines 1 through 6 - Who makes the decision?

line 29 - rewrite subsection (h) to read:

(h) The exceptions provided under this section do not preclude

(1) production and release of subpoenaed records or information to a state or municipal agency during the course of an investigation;

(2) production and release of records to the ombudsman when requested during the course of an investigation by him; records released to the ombudsman shall be kept confidential by him while the records are in his custody, except the ombudsman may, upon prior notice to the agency, release the records to the court for in camera review pursuant to AS 40.25.025(d).

Page 6

lines 3 through 7 - Oppose access to an employee's record of current performance on the job. (3 comments).

Each municipality should make the decision on personnel records.

beginning line 27 -the records shall be made [promptly] available to the person making the request within 10 days of the receipt of the request.

.....as soon as practicable but no more than 10 days.

Must allow for 10 days because it places the request over all other government business. (2 comments)

Page 7

lines 1 through 11 - the use of the word "suitable" is too vague. Should use Federal FOIA "reasonable segregability".

Any governmental unit that is applying an exemption should be required to include a packet of instructions, including the form drawn up by the Superior Court, on how to proceed in court without counsel to challenge the exemption.

lines 15 through 29 - smaller communities don't have Superior Court Judge full time. Suggestion that the magistrate's office do initial paperwork.

line 26 - change to "actual" attorney fees.

Page 8

line 25 through 29 - Who is the "head" of a governmental unit? What is an a "agency? If an agency is a department, the commissioner would be the "head"; if agency means the division, the director would be the "head". Who is the "head" of for example, the Human Rights Commission - the Executive Director or the Chair?

Would you need a "designee" in each office location - for example, an employee in Fairbanks Natural Resources office need to contact a designated custodian in Anchorage before releasing a record?

Page 8 con't

line 7 - case should be heard as a priority matter. 10 - 30 days maximum to hear trial.

line 16 - change reasonable to actual attorney fees and other actual litigation costs.

line 27 - definition of "governmental unit" should include "governmental instrumentality", "public corporation", "REAA" and "independent contractors paid with government funds but limited only to those activities related to the government contracts."

Page 9

line 11 - include "computer maintained records and information stored in a computer system"

line 24 - What is a "public body?" Would, for example, this section apply in a meeting between several state agencies and the U.S. Army?

beginning at line 28 - delete entire section - Repeals present authority of state or local government body to go into executive session to discuss matters which are required or authorized by federal law to be discussed in executive session. Would also repeal the present authority of municipalities to establish by charter or ordinance additional subjects which may be discussed in executive session.

(Above supported by Juneau, Kodiak, Nome and Municipal League)

OTHER COMMENTS

Exempt municipalities (Kodiak, Juneau, Municipal League)

Don't exempt municipalities (8 comments)

Allow municipalities to opt out after adopting similar ordinance.

Include an Administrative Appeal process.

Define "right to privacy" and "unjustifiable intrusion into a person's right of privacy."

Someone who would be adversely affected by disclosure of an arguably exempt record should be allowed to intervene in a case involving the application of an exemption.

Change pronouns to read he/she, him/her

Witnesses will not be protected if names, addresses & other personal info can be given to the public.

Recommend preparing poster to be hung in each office - 1) how to request info; 2) cost per page; 3) public's right to know; 4) what to do for enforcement.

Each governmental unit should be required to keep a file of letters of denial that should itself be made public.

Burden of proof should rest with the governmental unit. Presumption in favor of disclosure

Comment SB 90
Page 4

Preliminary labor negotiations should be private.

Public is not even aware of what is available.

Public will be paying additional "thousands of dollars" to staff a government unit to produce these records.

Page 10, Section 4 - good faith defense should be clearly limited as applying only to impairing the availability of a public record.



OFFICE OF THE FEDERAL INSPECTOR
ALASKA NATURAL GAS TRANSPORTATION SYSTEM
POUCH 6619, ANCHORAGE, ALASKA 99502
907-271-3668

4 FEB 1981

The Honorable Vic Fischer
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

The State Affairs Committee is holding public hearings on Senate Bill No. 90 introduced by you, Senators Parr, Stimson and Rodey. The Office of the Federal Inspector, Alaska Natural Gas Transportation System (ANGTS) has reviewed the bill and urges the State Affairs Committee to consider its comments. AS 09.25.120, one of the statutes which would be repealed by SB 90, sets out various exceptions to public disclosure. One category of documents excepted from public disclosure by AS 09.25.120 is "documents required to be kept confidential by a federal law or regulation..." This exception should be included in any legislation addressing freedom of information in this State.

This exemption is important both to the current Alaska natural gas pipeline construction project and to other relations with the federal government. The State Pipeline Coordinator's Office and the Federal Inspector's Office enjoy a free flow of information between them which helps both agencies to adequately monitor construction of the gasline. The State and the Federal Inspector's Office are negotiating a joint agreement which in part addresses the confidentiality of documents exchanged between them, and the agreement depends on the existence of a State statute exempting such documents from public disclosure. Any change will jeopardize this interchange of documents between the Federal Inspector and the State Pipeline Coordinator.

With these concerns in mind, the Federal Inspector's Office recommends that the legislature clearly include this exemption in SB 90 by changing the proposed Sec. 40.25.015(e)(1) to read as follows:

(1) Those exempted from disclosure by State statute or required to be kept confidential by federal law or regulation;

Thank you for the opportunity comment on SB 90.

Sincerely,



Cheri C. Jacobus
Attorney

Alaska Newspaper Association

c/o Box 710, Fairbanks, AK 99707

FOUNDING MEMBERS
Incorporated Dec. 6, 1980

January 27, 1980

ROBERT B. ATWOOD
The Anchorage Times

Sen. Vic Fischer, chairman
State Affairs Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

KATHERINE FANNING
Anchorage Daily News

LOREN STEWART
Chitcharik News, Kenai

MAX SWEARINGEN
Peninsula Citizen, Kenai

Re: Senate Bill 90

GLEN COBB
The Frontiersman, Palmer

TOM GIBBONEY
Home News

Dear Sen. Fischer:

JIM C. MARTIN
Alaska Journal of Commerce

I'm unable to attend your committee's hearing Thursday on SB90, the FOI and privacy bill, but wanted you to know our organization will be following this legislation closely and look forward to helping improve it.

G. KENT STURGIS
Fairbanks Daily News-Miner

Also, we appreciate the fact you have demonstrated the importance of the FOI-privacy issue by scheduling a hearing so early in the session.

LEW WILLIAMS
Kenai Daily News

CARL SAMPSON
Juneau Empire

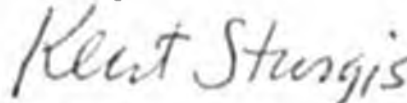
The Alaska Newspaper Association has not taken a position on SB90 but is encouraging its members to study the measure and offer comments and suggestions on an individual basis. In the meantime, we endorse the suggestions made by Prof. Dean Gottehrer of the Alaska Freedom of Information Task Force, of which the ANA is a member.

TOM SNAPP
Alaska News

Generally speaking, it's our belief SB90 is a step in the right direction.

Thank you again.

Sincerely,



Kent Sturgis, chairman
ANA Legislative Committee

cc: Kay Fanning, Anchorage
Dean Gottehrer, Fairbanks

JUNEAU EMPIRE

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Speak for yourself

Whether they were based on his experiences or on some other wisdom, we believe Juneau City-Borough Attorney Lee Sharp's testimony on a state freedom of information bill was an affront to the city-borough assembly and the people of this municipality.

According to Mr. Sharp's opinion, city officials and no one else should determine which information is open to the public. For the purposes of freedom of information, municipalities are not a part of the state of Alaska, says Mr. Sharp. Rather, they are independent feifdoms in which local assembly members can open and close local records at will. This feudal concept of freedom of information position has consistently been rejected by state courts. Nevertheless, Mr. Sharp continues to insist it is a viable modus operandi for local governments.

We couldn't disagree more. Local governments receive a major portion of their funding from the state. In fact, local governments are created by the state. In every area we can think of, local governments must comply with state law. According to Mr. Sharp's position, however, local governments should be free to close all of their records, if they so desire.

That simply isn't a proper way to run a government. The city-borough government, as well as the state and federal governments, are governments of the people. To argue a group of elected or appointed government officials can combine to hide information from the rest of the people is a concept we and all Alaskans must reject outright, with very few exceptions.

As Mr. Sharp fully knows, according to current state law, "The people, in delegating authority, do not give their public servants the right to decide what is good for them to know and what is not good for them to know." It is the law which includes that statement which Mr. Sharp seeks to

Get

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GRAND
DESERT
NEA



repair on the local level.

Generally speaking, the local city-borough assembly has been relatively responsive to freedom of information requests — especially after they were taken to court and lost. Last summer, the Juneau Empire was forced to seek a preliminary injunction against the city-borough to obtain public information, the names and qualifications of applicants for city-borough manager, police chief and fire chief. At the urging of Mr. Sharp, the assembly and city-borough manager had refused our requests.

As occurred in the three previous statewide cases and one since, the preliminary injunction ordering the city-borough to hand over the applicants was granted over the protests of Mr. Sharp.

Now we find Mr. Sharp advocating that municipalities be given the right to exempt themselves from any state freedom of information law. And, shockingly, some members of the city-borough assembly — Mr. Sharp's bosses — were unaware of his anti-freedom of information lobbying efforts. At least one city-borough assembly member told us the assembly at no time has discussed or laid out a position on the subject.

"I didn't agree with what he said, and it (Sharp's testimony) doesn't represent my position ... I would hope it does not represent the assembly's position," said Assembly member Diane Bergstrom.

According to City Manager Carl Laird, "It hasn't been brought up at an assembly meeting ... the assembly (members) are the policy-makers. I'm not going to get involved in a policy decision."

Therefore, we can only assume that Mr. Sharp's comments are either his personal opinions or the official position of the assembly. If they are his personal opinions, he has no right spending city-borough time—and money—by offering them. If they are not the assembly's official position why are they being offered as such?

As far as we have been able to determine, the assembly has not adopted an official policy on freedom of information.

Until the assembly publicly discusses and adopts a position on the freedom of information bill, we have some respectful advice for Mr. Sharp: speak for yourself.

CHECKLIST
1. KNOW A WORD.

Black

A black child still lacks and contribute in America

So asserts the Children's advocacy group, in a new Black and White Children findings:

— Millions of black children lack health care. As a result, the handicaps that could have

— Blacks are twice as long a year of life, twice as likely times as likely to be unemployed

— One out of every two children in four lives in suburbs never seen a dentist and of health care. Two out of five are not immunized against

This pathology is complex assumption that the gap America was closed during

"Millions of black children rears began in the 1960s and says Marian Wright Edelman Defense Fund. "Unless immediate black children's needs

President of re

By DONALD
AP P.

WASHINGTON (AP) — Ronald Reagan's first news conference was a rush of visual and verbal

There was the new president's Cabinet, welcoming the freed his first news conference. At turning the nation's military

The opening scenes were

Now, though, comes the first the first test of the credibility tion's problems — and how fighting the good fight again

Reagan began his term with tune when the American h. Inauguration Day. For a week used the White House ceremony "swift and effective retribut.

At his first news conference plagued him during the press "trigger happy."

Now that the hostages are revenge for their long ordeal

Reagan was the voice of re

"I don't think revenge is v. It restrained toward Iran. I

JUNEAU EMPIRE

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January '29, 1981

M E M O R A N D U M

TO: Senator Vic Fischer, Chairman
Senate State Affairs Committee

FROM: Senator Charles H. Parr *alp*

SUBJECT: Senate Bill No. 90

The following is a brief summary of the key points in SB 90 relating to privacy and public information.

Section 010 gives the State policy of openness, and is also found in existing statutes dealing with the open meeting clause.

Section 015 provides that all records are open to inspection and copying, and provides that fees must be limited to reasonable costs of duplication.

Beginning with (e) at page 2, line 23, there is a list of items which are exempted from disclosure. These may be grouped as protecting the right of privacy guaranteed in the Alaska Constitution, or as matters of public policy where the Legislature has found the greater benefit to be withholding information.

Section 020, beginning on page 6, provides that a record which can be made open by deleting certain confidential parts will be released after the deletions are made. It also says that refusal to release records must be made in writing.

Section 025 establishes a mechanism for obtaining a court order to require the government agency to release the information. A court may examine the records in camera to determine whether they should or should not be released.

Section 035 gives a civil cause of action against a person wrongfully withholding records, and protects the person who is withholding them in good faith.

Senator Fischer

-2-

January 29, 1981

Section 040 is the definition section.

Sections 2 and 3 of the bill, beginning on page 9, line 22, deal with the State open-meeting law and remove the authority of a municipality to hold executive sessions other than in accordance with State law.

CHP:vc

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TO: Nancy Groszek, Staff Member, Senate State Affairs Committee

FROM: Dean M. Gottcherer, Alaska Freedom of Information Task Force
P. O. Box 74573, Fairbanks 99707

Society of Professional Journalists

Farthest North Chapter
Box 74573
Fairbanks, Ak. 99707

Sigma Delta Chi

January 26, 1981

Members
Senate State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Dear Committee Members:

On behalf of the Alaska Freedom of Information Task Force, I thank you for the opportunity to submit written testimony on Senate Bill 90. The FOI Task Force was organized by the Farthest North Chapter of the Society of Professional Journalists and numbers nearly 40 members, among them most of the state's daily newspapers, many weekly papers, broadcast stations, magazines and other media organizations. The Task Force is dedicated to seeking the passage of a Freedom of Information bill that will bring government out of the shade where the people's business is being hidden and keep it in the sunshine where that is presently the case.

I have urged our members to judge any proposed legislation against the current law. On that standard I believe SB 90 rates high. It includes all branches of state government, covers municipal and borough governments and provides for speedy access to inspect government documents. Generally, it sides with free and open government so that the people may know what is being done in their name. For the most part the exclusions listed in the bill are rational and legitimate and balance the sometimes conflicting rights of freedom of information and the right to privacy of the individual.

There are, however, some areas of the bill we would like to see changed. Presently the bill contains no definition of the right of privacy. We believe the legislature, following the constitutional mandate should define that right. We suggest the following definition from the Restatement of Torts. Privacy is that right of an individual to be protected against publicity of a matter concerning that individual's private life when the matter, public or not, is of a kind that (a) would be highly offensive to a reasonable person and (b) is not of legitimate concern to the public.

We believe the exclusion listed in Sec. 40.25.015 (e)(3) should be stricken from the bill. It is of such a general nature that many records the legislature would probably want public could be withheld under that exclusion. Sec. 40.25.015 (19) concerns us for two reasons. First, it potentially excludes original entry police records--those documents completed when a suspect is taken into custody. One of the roles of the press historically has been to see that no individual is held by the police unjustly and closing original entry records makes that a much greater potential hazard. Second, (C) of (13) speaks of an unjustifiable intrusion into a person's right of privacy. If that language is to remain here and in other sections of the bill we believe a definition is needed of what is a justifiable intrusion. Since that seems almost impossible, we would prefer to see

Dedicated to Professionalism in Journalism

January 26, 1981

that language removed. We don't want to see the police or other governmental unit employees left with the impression that anything unflattering is private.

In a suit for disclosure, the burden of proof should rest with the governmental unit to prove it was required not to release requested information. The courts should be instructed to presume in favor of disclosure.

Each governmental unit should be required to keep a file of letters of denial of information requests that should itself be public. This would allow easy monitoring of governmental units to determine whether they are complying with the law.

The bill does not clearly include computer maintained records as it should. The section defining records should be amended to include "information stored in a computer system." Independent contractors paid with government funds should also be included in the bill's coverage. The definition of governmental unit should include "independent contractor paid with public money in whole or in part and under the supervision of any of the above groups or units."

Whether the state should charge for document copies and how much is a question that has plagued us for some time. Some members believe the media should not be charged since they are doing the public's business when requesting documents while researching a story. Others are willing to pay. No one, however, believes a governmental unit should charge more than the actual copying cost. The method contained in the Governor's proposed regulations is a good compromise. Each requestor receives 20 pages free of charge in any 24 hour period. Above that the charge is 10 cents per page. Currently a great variety of charges exists among agencies. It would help all if the legislature standardized these charges.

Finally, one last concern. Sec. 4 of the bill on page 10 makes a good faith reliance on AS 40.25 or other law governing confidentiality of public records a defense against the crime of tampering with public records. This defense should be clearly limited as applying only to impairing the availability of a public record and not to any of the other actions listed in AS 11.06.020.

The last you have before you is not an enviable one. You will be urged to exclude this or that branch of government, this or that agency, one or another of a multitude of types of records from coverage under the bill. As you address each of these requests, I ask that you recall that all of these governmental units exist because they are supported with public monies. The public has a right to know what is being done with these funds. Government in the sunshine is best for all people. Keeping government open primarily benefits the people--not the media. Remember that 75 percent of all requests under the federal freedom of information laws come from non-media sources and only 25 percent from the media.

Sincerely yours,



Dean M. Colchester

Chairman

Alaska Freedom of Information Task Force

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1/28/81

SENATE STATE AFFAIRS
COMMITTEE MEETING SCHEDULE

TUESDAY

Feb. 3
1:30 p.m.

EXEC. ORDER #48

Relating to the transfer of the Alaska Council on Science and Technology from the Department of Environmental Conservation to the Department of Administration.

Hearing

SENATE BILL 54

"An Act relating to the Alaska National Guard and Naval Militia; and providing for an effective date. "

Hearing

SENATE BILL 72

"An Act relating to veterans and public records. "

Hearing

THURSDAY

Feb. 5
1:30 p.m.

SENATE BILL 90

"An Act relating to privacy and public information; and changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure. "

All-sites teleconference hearing

ALL HEARINGS WILL BE CONDUCTED IN THE SENATE STATE AFFAIRS COMMITTEE ROOM, BEHRENS BLDG., FIRST FLOOR. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT SEN. FISCHER'S OFFICE (465-4954, 4955).