

ALASKA LEGISLATURE COMMITTEE FILES 1985 - 1986 8672

3214.66 HHESS HB 88 66

March 18, 1985

The Honorable Peter Goll  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Peter Goll:

I am asking you to support and enact HB 88 relating to the protection of children.

In Sections 47.17.069(4) and .070(1) of the bill, the terms "mental injury" and "emotional injury" are vague and need to be clarified.

In Section 11.51.100(1), what is and who determines "substantial risk"?

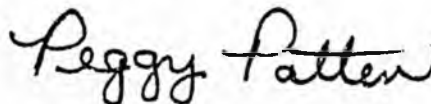
A provision stating that if the State assumes custody of 1 child in a family—all other children in the family need to be protected in the same way.

Also a provision protecting the rights of a preverbal child needs to be included.

I am currently involved in a case with the Division of Family and Youth Services and a preverbal child. The information on the case is attached.

If you can use my testimony or have any questions, please contact me at the numbers or address listed below.

Thank you.



Peggy Patten  
Wk. 465-2570  
Hm. 789-2825  
P. O. Box 3053  
Juneau, AK 99803

The case with the Division of Family and Youth Services involves 1 child (4 years old) in a family who was determined by the State to be a child in need of aid (CINA) and removed from the mother's home. After this action was taken by the State, this same mother took custody of her other 18 month old child who had been living with an aunt for 14 months as a foster child. This same mother lived 2 streets over from where her 18 month old child had lived but only visited her child 5 times in the 14 months and for no longer than 30 minutes per visit.

The case was brought to court to get a temporary restraining order preventing the mother from having custody of this child during the mother's probationary period, (the same time period the other child was in custody of the state). The judge ruled that due to the vagueness of the law he had to award custody of the daughter to the natural mother even though:

1. Her other 4 year old child was determined by the State to be a Child in Need of Aid and removed from her home;
2. She failed the first 3 months of her probation/rehabilitation program with the State and was not making progress with her second 3 months (second chance);
3. She is living with a man who has a record of woman/child abuse.
4. This 19 month old, preverbal child is left alone in the care of this known abuser while the mother goes to her required classes during the days and evening.
5. The judge also ruled that the child was in a potential abusive situation and appointed a guardian at litem who was not named until 4 weeks after the hearing in court.

(The mother was abused as a child. Her State programs include parent aide, homemakers program, and alcoholic counseling.)

REPRESENTATIVE  
PETER GOLL



POUCH V  
JUNEAU, ALASKA 99811  
(907) 485-4925

STATE OF ALASKA  
HOUSE OF REPRESENTATIVES

April 17, 1984

The Honorable Bill Sheffield  
Governor  
State of Alaska  
M/S0100

Dear Governor Sheffield:

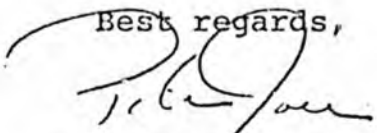
Thank you very much for your letter of April 19, regarding AS47.17.

I appreciate your continuing interest in this matter.

If all goes well, I will pre-file the bill incorporating  
your language in early December, 1984.

Thanks again.

Best regards,

  
Peter Goll



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

April 19, 1984

The Honorable Peter Goll  
Alaska State House  
Pouch V  
Juneau, AK 99811

Dear Representative Goll:

Thank you for your letter of February 13, 1984, regarding amending AS 47.17 to include language regarding psychological injury as a form of child abuse. Currently Alaska law does not provide explicit protection of children from harm to their mental or emotional well-being. Existing statutes focus on physical harm to children and neglect the equally handicapping and often more far-reaching effects of mental or emotional maltreatment. While physically abused children are almost always emotionally maltreated as well, emotional maltreatment may occur alone. Children suffering only mental maltreatment are presently unprotected under Alaska law. This gap in protection of children can generally be attributed to dissatisfaction with criteria for defining and identifying mental or emotional maltreatment and a fear that an insufficient definition would provide too great an opportunity for unwarranted governmental intrusion into Alaskan family life. It is this Administration's position that these issues can be adequately addressed.

We recommend the following amendments to AS 47.17:

- 1) That the term "mental injury" be used.
- 2) That a section be added to the Bill to amend AS 47.17 as follows:

AS 47.17.010. Purpose. In order to protect children whose health and well-being may be adversely affected through the infliction, by other than accidental means, of harm through physical or mental abuse or neglect or sexual abuse or sexual exploitation, the Legislature requires the reporting of these cases by practitioners of the healing arts and others to the appropriate public authorities. It is the intent of the Legislature that, as a result of these reports, protective services will be made available in an effort to prevent further harm to the child, to safeguard and enhance the general well-being of children in this state, and to preserve family life whenever possible.


- 3) That a section be added to amend AS 47.17.010(1) to read as follows:
  - (1) "Child abuse or neglect" means the physical or mental injury or neglect, sexual abuse, sexual exploitation or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;
- 4) That a section be added amending AS 47.17.070 by adding a new paragraph to read:
  - (9) "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by an observable and substantial impairment in the child's ability to function within a normal range of performance and behavior, with due regard to his culture.

These changes would remove any ambiguity about the intent of the Legislature and would require that harm to the mental health of a child be reported and investigated where such harm appears to have arisen by intent of the person responsible for the child's welfare.

The Department of Health and Social Services has concluded that the suggested amendments to AS 47.17 would require no additional fiscal resources. It is expected that instances of reported emotional injury to children will be relatively small in number and can be investigated satisfactorily with existing staff.

Finally, we believe that this legislation should be changed for the above stated policy reasons. The benefits which would accrue to the State by becoming eligible for funding under PL 95-266 are a secondary gain.

Sincerely,

  
Bill Sheffield  
Governor



Official Business

# Alaska State Legislature

## House of Representatives

Pouch V  
State Capitol  
Juneau, Alaska 99811

March 17, 1984

Dr. Robert London Smith  
Commissioner  
Department of Health and Social Services  
Pouch H 01  
Juneau, AK 99811

Dear Commissioner Smith:

Thank you for your letter of March 9, concerning the issue of psychological abuse to minors.

I am pleased to have the support of the Department on this critical issue.

Should I decide to introduce this legislation next Session, I will contact you in a timely fashion.

Best Regards,

  
Peter Coll

BILL SHEFFIELD, GOVERNOR

**DEPT. OF HEALTH AND SOCIAL SERVICES**

**OFFICE OF THE COMMISSIONER**

POUCH H 01  
JUNEAU, ALASKA 99811

PHONE:  
DOCUMENT NO. 84-78

March 9, 1984

The Honorable Peter Goll  
Representative  
The Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Goll:

Thank you for your letter of February 21, 1984, regarding psychological abuse. The Department continues to be in support of legislative changes to AS 47.17 which would add emotional injury to the problem areas which must be reported to the Department. We do believe that such a change would provide additional legal protection to an unknown number of children. Should you be willing to introduce such legislation, the Department would certainly be in support, and would be happy to provide any available information which would be helpful.

Sincerely,

*for* *E. S. Ribeau, M.D.*  
Robert London Smith, Ph.D.  
Commissioner



STATE OF ALASKA  
HOUSE OF REPRESENTATIVES

February 21, 1984

Robert London Smith, PhD  
Commissioner  
Department of Health and Social Services  
Pouch H-01  
Juneau, Alaska 99811

Dear Commissioner Smith:

Thank you for your letter of February 15, regarding federal funds for child abuse prevention under PL 95-266.

I understand that there would be costs to the state should we implement programs based upon psychological abuse. I further understand that the income from federal sources would not be very significant given the expenses involved, and so forth.

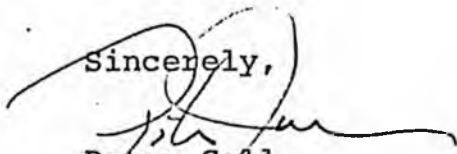
I will appreciate a statement as to whether you wish to pursue legislation next year to bring the state into conformity.

I am confident that your judgement on the economic pros and cons will be sufficient to my needs. I understand, of course, that including psychological abuse might provide legal protection for children which may be needed.

Your recommendations will be appreciated. From the statements received thus far, it seems that need for the legislation rather than income which would be derived therefrom will be the deciding factor.

Thank you.

Sincerely,

  
Peter Goll

BILL SHEFFIELD, GOVERNOR

**DEPT. OF HEALTH AND SOCIAL SERVICES**

**OFFICE OF THE COMMISSIONER**

POUCH H 01  
JUNEAU, ALASKA 99811  
PHONE: 465-3030

Document No. 84-35

February 15, 1984

The Honorable Peter Goll  
Representative  
Alaska State Legislative  
Pouch V  
Juneau, AK 99811

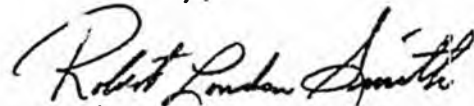
Dear Representative Goll:

This letter is in response to your letter of January 24, 1984, in which you asked whether the \$44,450 we could receive in federal funds would be comparable to the expenses of implementing a change in AS 47.17. This Department has not done a cost benefit analysis of the impact of this change. However, we would like to point out that funds available to states under P.L. 95-266 are allocated on the basis of population. Thus, for states with larger populations, there is more incentive than there is to Alaska. The Federal Government specifies that these funds are to be used for grants to community agencies in the area of child abuse and neglect (CAN) and also requires that a state CAN liason attend yearly national meetings which are generally held on the east coast. Thus, the travel costs must come out of the state's allocation.

If Alaska were to receive these funds, they would be added to the Division of Family and Youth Services' Preventative Services grant program, which is currently funded at the level of \$1.9 million. We would, of course, be pleased to have this additional funding added to the grant program, as it could fund another small program somewhere in the State, or help to fund a larger program.

We hope this information clarifies the situation.

Sincerely,



Robert London Smith, Ph.D.  
Commissioner



STATE OF ALASKA  
HOUSE OF REPRESENTATIVES

December 22, 1983

Robert London Smith, Phd  
Commissioner  
Department of Health and  
Social Services  
Pouch H-01  
Juneau, Alaska 99811

Dear Commissioner Smith:

Thank you for your letter of November 23, regarding the changes in the budget structure for mental health.

The theory you express will be most valuable if the results are as you project.

There have been a number of issues recently raised about community mental health. But the need for community programs is clear and pressing. These programs must be structured and maintained to generate the greatest possible amount of service availability to rural Alaska.

This will not only have human service benefits, but will save the state money over time as fewer persons are sent to various institutions. These include abused children, alcoholics, violent individuals, persons suffering from emotional and minor psychiatric problems, persons required by the court to seek counseling, and others.

Your continued support for community mental health services is appreciated. The grouping of institutional and community services has clearly caused significant worry in the local community programs. I would appreciate a brief comment from your office on what method will be used to prevent the situation you mention of one component suffering due to the needs of another component. I recognize your personal commitment to this, but would like to report some procedural safeguards to the persons who have expressed concern.

I concur, incidentally, that if properly implemented, a cooperative funding process could increase our ability to ensure the availability of money when needed. However, the appearance that competition will be created necessitates a procedural safeguard. Your comments are appreciated.

Best regards,

  
Peter Goll

83/12/22-1

STATE OF ALASKA  
**DEPT. OF HEALTH AND SOCIAL SERVICES**

**OFFICE OF THE COMMISSIONER**

*file Mental Health center*  
**BILL SHEFFIELD, GOVERNOR**

**POUCH H 01  
JUNEAU, ALASKA 99811  
PHONE:**

**465-3030**

November 23, 1983

DOCUMENT #83-271

The Honorable Peter Goll  
Representative  
Alaska State Legislature  
P.O. Box 581  
Haines, AK 99827

Dear Representative Goll:

I have received a number of letters regarding the FY 85 budget structure change proposed by the Division of Mental Health and Developmental Disabilities. I know that you have also been made aware of the issue. I agree with the concerns that the community mental health centers must remain intact and that the budget structure should not interfere with their funding. The decision to collapse budget request units (BRU) such as the API and community mental health centers into one BRU was made to reduce the administrative tasks required in the initial budget preparation and presentation to the Legislature.

The budget structure change does not signify a major policy shift. In fact, we support both the API and the community mental health centers as critical components necessary for the safety, welfare, and well being of all Alaskans. Our goal is that each component will maintain its integrity and control its own resource. The change will allow shifting small amounts of money which might otherwise lapse or be unutilized which we also believe to be a plus.

We feel this would ease minor operations in the interest of all concerned individuals. This administrative flexibility would promote training, education, staff exchange, unforeseen travel, and other such events to occur which might otherwise be precluded by the prior multiple BRU structure.

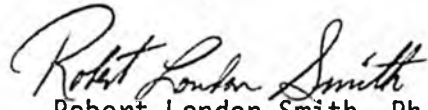
It is our view that such minor shifts would be in the interest of all mental health workers, consumers, patients and families and that no one component would suffer at the hands of another component. We are currently working very hard to achieve the proper delicate balance between the API and community programs. This budget structure change can promote that balance.

Any change, however small, would have to leave an audit trail available for all concerned to follow. A major policy change in view of the Legislative appropriation to each component which serves as the Legislature's intent, would be unwise and is certainly not what the Division has in mind.

Again, it is my view that the BRU change will streamline the budgetary process and is in the interest of the entire mental health community. Even though we are prepared to live as we have within the FY 84 budgetary boundaries, we remain convinced that this is a cumbersome structure and it prevents the Division from serving all of the people in the most fluid and flexible manner possible. It is our intention and belief that mental health centers would profit from a change.

I hope this letter addresses your concerns. Thank you for your consideration of this response.

Sincerely,

  
Robert London Smith, Ph.D.  
Commissioner

REPRESENTATIVE  
PETER GOLL



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4925

STATE OF ALASKA  
HOUSE OF REPRESENTATIVES

February 28, 1984

Mr. Bernard E. Kelly  
Regional Director  
Department of Health and Human Services  
Region X  
2901 Third Avenue  
Seattle, Washington 98121

Dear Mr. Kelly:

Thank you very much for your letter of February 24. I will contact the Department of Health and Social Services and make every effort to resolve this issue in a productive manner.

I appreciate your time and interest in this matter.

Sincerely,

Peter Goll



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the  
Regional Director

Region X  
M/S 504  
2901 Third Avenue  
Seattle, WA 98121  
February 24, 1984

The Honorable Peter Goll  
State of Alaska  
House of Representatives  
Juneau, Alaska 99811

Dear Mr. Goll:

This is in response to your December 28 letter to Mr. Bruce Berglund of the Department of Health and Human Services Administration for Children, Youth and Families (ACYF). You had requested our office to review with the Department of Health and Social Services (DHSS) the necessary steps to comply with Federal standards to be eligible for NCCAN funds and further to advise you of specific language to be included in Alaska statutes.

DHSS recently contacted our ACYF staff which provided them with the information on specific steps necessary for Alaska to now meet eligibility standards for NCCAN grants. In addition, Edward Singler, Regional Administrator for Human Development Services which oversees the ACYF, wrote to Commissioner Smith and provided him with information and program guidelines to assist Alaska's efforts toward eligibility for funding.

One of the guidelines which DHSS personnel may have difficulty meeting is the March 31, 1984 deadline to apply for NCCAN funds. If this is the case, the recent program instruction which DHSS has received as a part of Mr. Singler's letter included a statement on a waiver of this deadline. The waiver reads:

States which are presently ineligible but have legislation in progress which might affect their eligibility should request, from the Regional Program Director, a waiver of the March 31, 1984 deadline for the submission of their Statements of Assurance. However, the deadline cannot be extended beyond June 30, 1984, as State allocations must be made by that date in order that awards can be made before the end of FY 1984. Finally, the waiver of the deadline and extension of time applies only to the Statement of Assurance. The application for Federal Assistance (Form 424) must be made by all applicants no later than March 31, 1984.

In addition to the specific steps needed for eligibility mentioned in our letter to Ms. Heidi Borson, in Mr. Singler's letter and enclosures, and in our telephone discussion with DHSS personnel, following are several other considerations:

- o Senate Bill 327, Senator Slurgulewski's bill on emotional injury, changes both the Alaska criminal code (11.51.100(a)) as well as the Child Protection Definition or Reporting Statute (Sec.47.17.070). If there is a possibility of the "under 10 years of age" restriction in the criminal code being construed to apply to the reporting statute, it would not be an acceptable standard to protect children or meet NCCAN eligibility.
- o Generally we agree with the DHSS position paper on Senate Bill 327. Many of the comments reflect information that we have sent to DHSS. It appears DHSS does not feel that the "under 10 years" in the criminal code would affect the Reporting Statute and indeed the wording they suggest is satisfactory.
- o In discussing a definition of "mental injury," the DHSS staff, on page 3, item 4(9) of the position paper, state that "Mental injury means . . . substantial impairment in the child's ability to function within a normal range of performance . . . ." The Federal intent is to evaluate a child on what is normal for his maturation and circumstances rather than attempting to compare him with others. Our preference would be to change the phrase to ". . . function within that child's normal range of performance . . . ."

A copy of Senator Slurgulewski's bill is enclosed as well as a copy of the DHSS position paper on the bill. We have also enclosed a comment regarding the definition of mental injury.

Our recommendation for the inclusion of mental injury in your Reporting Statute is to keep the definition simple because of the necessity of a broad definition to meet the legislature's intent which is maximum protection of children; of the impossibility of the legislature to predict every instance of mental injury; reasonable parents receive enough guidance by the statute to behave accordingly; and definitions do not cede to the agencies' blanket authority to exercise their discretion.

We urge passage of Alaska Senate Bill 327 since this could very possibly eliminate a major barrier to Alaska's eligibility for program funding, unless earlier comments about the criminal code and "under 10" apply. If this bill does not pass the present legislative session, pending Federal legislation may still provide Alaska an opportunity to be eligible for NCCAN funds. As you may be aware, the United States House of Representatives recently passed H.R. 1904 which contains a different waiver for States. The waiver reads:

States that do not qualify may be granted a waiver for two years if the Secretary determines the State is making a good faith effort to comply.

It appears the Senate also will include this waiver, though it is not presently in the companion bill, S.1003. In addition, the Department of Health and Human Services will need to publish Federal regulations to accommodate this provision which would delay Alaska's receiving funds for another year. Therefore, even if this waiver is eventually passed by both Houses, there may not be enough time for Alaska to apply for fiscal year 1964 funds.

I am enclosing another copy of the Statement of Assurance that Governor Sheffield needs to sign for eligibility. I suggest your legal services and Attorney General review all 15 assurances.

I appreciate the important efforts you are making on behalf of Alaska's children. If you need additional assistance or further information, please contact me.

Sincerely,

Bernard E. Kelly  
Regional Director

Enclosures

cc:  
Governor William Sheffield  
Commissioner Robert L. Smith



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

*abuse*

Fourth Fl., State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

November 16, 1983

MEMORANDUM

TO: Representative Peter Goll

FROM: Heidi Borson<sup>HB</sup>  
Legislative Analyst

RE: Child Abuse  
Research Request 83-202

After sending you our report on child abuse and neglect, I received some materials which may interest you. Attached is a letter from Bruce Berglund, Child Abuse and Neglect Specialist for Region X of the Department of Health and Human Services. His letter outlines the materials he enclosed, and also provides a description of steps Alaska needs to take in order to meet National Center on Child Abuse and Neglect (NCCAN) state grant eligibility requirements, and a history of previous attempts to bring Alaska statutes into conformance with NCCAN standards.

I also received a fact sheet on Michigan's Children's Trust Fund and copies of the bills which established the fund from Sharon Shay, Council for the Prevention of Child Abuse and Neglect. If you would like to review any of the materials Ms. Shay and/or Mr. Berglund sent me, please let me know. I will gladly forward copies to you.

Attachments

HB

Region X  
M/S 413  
2901 Third Avenue  
Seattle, WA 98121

November 3, 1983

Heidi Borson  
40 House Research Agency  
Pouch Y  
Juneau, Alaska 99811

Dear Ms. Borson:

As a supplement to our October 31st telephone conversation, I am sending you some material that relates to child abuse and neglect, Alaska and Federal standards to help Alaskan children.

- (1) Please refer to the enclosed "Study Findings" that gives a picture of the extent of the problem.
- (2) Also enclosed is relevant information on the National Center of Child Abuse and Neglect (NCCAN).
  - a) The Federal Law on NCCAN
  - b) The NCCAN Code of Federal Register (CFR)
  - c) Statement of Assurance for Eligibility
  - d) Instructions for Making Application
  - e) Funding
- (3) The proposed CFR on FY'84 Demonstrations.

Federal eligibility determination includes a review of Alaska's application, current laws and interpretation of those laws. Until Alaska makes formal application there will be some doubt where the state stands. Based on what we have, Alaska needs to:

- (1) Pass an amendment to their CA/N reporting law to include the words, "mental injury". For an example of a total reporting law that meets federal eligibility please refer to PL95-266, Section 3.
- (2) Either an amendment or a formal opinion by the Alaska Attorney General indicating that persons responsible for the child includes public and private institutions.
- (3) Either an amendment or a formal opinion by the Attorney General stating that, "having cause to believe" is synonymous with, "suspect" in child abuse and neglect reporting.
- (4) Review the Alaska inclusion of sexual abuse and sexual exploitation of children in your reporting law. Alaska statutes do not need to use the same words as long as the

state covers the conditions and situation, described in CFR Part 1340.2(d). The last General Council review of Alaska statutes was before the issuance of the January 26, 1983 CA/N CFR which details eligibility in this area for the first time.

The DHHS, Regional and Central Offices have encouraged Alaskans to meet NCCAN state grant eligibility (standards) since 1974.

Alaska has declined every year but one to apply for their allocation under Subsection 4(b) (2). The most serious ineligibility factor in Alaska is the failure of the legislators to pass legislation including mental injury as a part of the state's definition of CAN.

In 1976, legislation was introduced to specifically include mental injury in the state's definition of CAN. After considerable debate the legislators did make the decision not to expand on the present definition.

In 1978, an attempt was made to secure an Attorney General's opinion that existing statutes could be interpreted to include mental injury. This approach turned out not to be feasible.

In 1979, some Alaska legislators made an unsuccessful attempt to remove neglect from the existing CAN statutes. As a result of these limited efforts the Department chose not to attempt to broaden the definition of CAN.

In 1980, legislation was reintroduced to include mental injury in the state's definition of CAN. (H.B. 545). The CAN Regional Resource Centers (RRC) efforts to educate legislators about CAN was apparently responsible for the introduction of H.B. 545.

Also in 1980 the Director of the Anchorage Child Abuse Board with urging from the Regional CA/N Specialist offered to continue working with Alaska legislators in reintroducing legislation including mental injury in the Alaska statute defining CAN.

When the Regional CAN Specialist met with Commissioner Beirne in 1981, she felt that mental injury should by all means be included in Alaska's statute definition. She said that such a proposal to legislators would however need to come from outside the Department.

Regional Office efforts continued in 1982.

In 1983 due to OHDS reorganization the Regional CA/N Specialist worked with the Alaska HHS Representative rather than with Alaska's directly.

As I said over the phone Ms. Borson, we are very interested in Alaska

Page 3.

children being helped thru these NCCAN standards and would welcome an opportunity to pursue eligibility issues with you and other Alaska citizens.

Please let us know the response to this material and where we might help.

You may reach me at (206) 442-8109.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bruce Berglund".

Bruce Berglund  
CA/N Specialist

Enclosures



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the  
Regional Director

Region X  
M/S 504  
2901 Third Avenue  
Seattle, WA 98121  
February 24, 1984



The Honorable Peter Goll  
State of Alaska  
House of Representatives  
Juneau, Alaska 99811

Dear Mr. Goll:

This is in response to your December 28 letter to Mr. Bruce Berglund of the Department of Health and Human Services Administration for Children, Youth and Families (ACYF). You had requested our office to review with the Department of Health and Social Services (DHSS) the necessary steps to comply with Federal standards to be eligible for NCCAN funds and further to advise you of specific language to be included in Alaska statutes.

DHSS recently contacted our ACYF staff which provided them with the information on specific steps necessary for Alaska to now meet eligibility standards for NCCAN grants. In addition, Edward Singler, Regional Administrator for Human Development Services which oversees the ACYF, wrote to Commissioner Smith and provided him with information and program guidelines to assist Alaska's efforts toward eligibility for funding.

One of the guidelines which DHSS personnel may have difficulty meeting is the March 31, 1984 deadline to apply for NCCAN funds. If this is the case, the recent program instruction which DHSS has received as a part of Mr. Singler's letter included a statement on a waiver of this deadline. The waiver reads:

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It appears the Senate also will include this waiver, though it is not presently in the companion bill, S.1003. In addition, the Department of Health and Human Services will need to publish Federal regulations to accommodate this provision which would delay Alaska's receiving funds for another year. Therefore, even if this waiver is eventually passed by both Houses, there may not be enough time for Alaska to apply for fiscal year 1984 funds.

I am enclosing another copy of the Statement of Assurance that Governor Sheffield needs to sign for eligibility. I suggest your legal services and Attorney General review all 15 assurances.

I appreciate the important efforts you are making on behalf of Alaska's children. If you need additional assistance or further information, please contact me.

Sincerely,

*James D. Kelly*  
*acting for* Bernard E. Kelly  
Regional Director

Enclosures

cc:  
Governor William Sheffield  
Commissioner Robert L. Smith

1 IN THE SENATE

BY STURGULEWSKI

2

SENATE BILL NO. 327

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to child abuse."

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

8 \* Section 1. AS 11.51.100(a) is amended to read:

9 (a) A person commits the crime of endangering the welfare of a  
10 minor if, being a parent, guardian, or other person legally charged  
11 with the care of a child under 10 years of age, the person intention-  
12 ally deserts the child in any place under circumstances creating a  
13 substantial risk of physical or emotional injury to the child.

14 \* Sec. 2. AS 47.17.070 is amended by adding a new paragraph to read:

15 (8) "harm" means physical or emotional injury to a child  
16 which threatens a child's health or welfare.

POSITION PAPER  
SENATE BILL 327

"An act relating to child abuse."

Senate Bill 327 would amend Alaska's criminal code to include placing a child in circumstances creating substantial risk of emotional injury to the child in the definition of the crime of endangering the welfare of a minor. It would also amend Alaska's child protection statute to define harm to a child as both physical and emotional injury which threatens the child's health or welfare.

By defining harm to include emotional injury SB 327 would also have the effect of requiring professional persons who must report harm from physical abuse to also report instances of emotional injury. The Department would in turn be required to investigate such reports and act appropriately to protect children.

The Department supports SB 327 as an appropriate and needed expansion of the range of protection provided for Alaskan children. As presently constructed, Alaska law does not provide explicit protection of children from harm to their mental or emotional well-being. Existing statutes focus on physical harm to children and neglect the equally handicapping and often more far-reaching effects of mental or emotional maltreatment. While physically abused children are almost always emotionally maltreated as well, emotional maltreatment may occur alone. Children suffering only mental maltreatment are presently unprotected under Alaska law.

This gap in protection of children can generally be attributed to dissatisfaction with criteria for defining and identifying mental or emotional maltreatment and a fear that an insufficient definition would provide too great an opportunity for unwarranted governmental intrusion into Alaskan family life. It is the Department's position that these issues can be adequately addressed.

Emotional maltreatment can be differentiated as a category of child abuse and neglect apart from ineffective or even occasionally harmful parenting through four criteria which can be made implicit in the definition of emotional or mental maltreatment. These criteria are:

1. Emotional maltreatment is generally a chronic pattern of parental behavior rather than an occasional lapse; and it has an adverse effect on the child. It causes an emotional or mental injury.
2. The effect of emotional maltreatment is observable in the child's abnormal performance or behavior.
3. The effect of such maltreatment is long-lasting. The maltreatment brings about an erosion of the child's capacity to think and feel.

## POSITION PAPER

SENATE BILL 327  
PAGE 2

4. The effect of emotional or mental maltreatment constitutes a handicap to the child. It causes substantial impairment of the child's ability to think, to learn, and to enter into relationships with others and to find satisfaction in his/her endeavors.

Although emotional or mental maltreatment is rarely manifested in physical signs, there are a few physical indicators: speech disorders, lags in physical development, and failure to thrive syndrome (which is a progressive wasting away usually associated with the lack of mothering). More often emotional harm is indicated through behavior which is often similar to that of emotionally disturbed children. Emotionally injured children are impaired in their ability to function and often exhibit poor self concepts and impaired overall thought processes. They often have low impulse control and high levels of aggression, anxiety, and self-destructiveness. Such children often display high levels of anti-social behavior as they grow older. These anti-social behaviors such as truancy, extreme aggressiveness, delinquency, and attempted suicide often require the intervention of State or local government agencies and the provision of special services which are often far more expensive and certainly less protective of the child than prevention or intervention at an earlier time would have been.

The Department recommends four amendments to SB 327 to clarify the intent to provide protection of children from emotional harm and to provide a clearer, more legally practicable definition of mental injury. Suggested amendments are as follows:

1. That the term "mental injury" be substituted for emotional injury in Sections 1 and 2 of the Bill.
2. That a section be added to the Bill to amend AS 47.17.010 as follows:

AS 47.17.010. Purpose. In order to protect children whose health and well-being may be adversely affected through the infliction, by other than accidental means, of harm through physical or mental abuse or neglect or sexual abuse or sexual exploitation, the legislature requires the reporting of these cases by practitioners of the healing arts and others to the appropriate public authorities. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to prevent further harm to the child, to safeguard and enhance the general well-being of children in this State, and to preserve family life whenever possible.

POSITION PAPER

SENATE BILL 327  
PAGE 3

3. That a section be added to amend AS 47.17.010(1) to read as follows:
  - (1) "Child abuse or neglect" means the physical or mental injury or neglect, sexual abuse, sexual exploitation or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;
4. That a section be added amending AS 47.17.070 by adding a new paragraph to read:
  - (9) "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by an observable and substantial impairment in the child's ability to function within a normal range of performance and behavior, with due regard to his culture.

These changes would remove any ambiguity about the intent of the legislature and would require that harm to the mental health of a child be reported and investigated where such harm appears to have arisen by intent of the person responsible for the child's welfare.

The vast majority, 47 of the 50 states, have statutory provisions protecting children from mental abuse or neglect similar to those recommended by the Department. Such provisions are encouraged by the Federal Department of Health and Human Services and the inclusion of such provisions in State law makes states eligible to receive federal grant funds under Public Law 93-247. Passage of SB 327 would make Alaska eligible to receive \$45,379 which could in turn be granted for the provision of child abuse prevention and treatment programs and services.

The Department has concluded that passage of SB 327 as it is presently constructed or with the suggested changes would require no additional fiscal resources. It is expected that instances of reported emotional injury to children will be relatively small in number and can be investigated satisfactorily with existing staff.

POSITION PAPER

SENATE BILL 327  
PAGE 4

RECOMMENDED: Michael L. Price  
Michael L. Price; Director  
Division of Family and  
Youth Services

DATE: 1/25/84

APPROVED BY: \_\_\_\_\_  
Robert London Smith, Ph.D.  
Commissioner  
Department of Health and  
Social Services

DATE: \_\_\_\_\_

"Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by an observable and substantial impairment in his ability to function within his normal range of performance and behavior, with due regard to his culture.

Comment

This subsection defines the term "mental injury" which appears in subsection 4(c)(i), supra. However, since that section requires that the parent or other person responsible for the child's welfare "inflict" or "allow to be inflicted" the "mental injury," the mental injury must be clearly attributable to the acts or omissions of the parents and the mental injury to the child must be established clearly before the child can be considered abused or neglected. The causes of mental injury or emotional illness are complex; it would be unfair to automatically blame the parents for a child's mental or emotional condition, and yet, this is an all too common consequence of abuse and neglect. It is important to note that the Model Act requires that the mental injury be "evidenced" by an "observable and substantial impairment." This might include failure to thrive; inability to think and reason; inability to control aggressive or self-destructive impulses; acting-out or misbehavior, including incorrigibility, ungovernability, or habitual truancy. Expert psychiatric or psychological examination often can demonstrate the relationship between a child's mental condition and the acts or omissions of the persons responsible for his welfare, especially if the child improves during the time he is in agency care or his family is under an agency's supervision. Finally, the Model Act is careful to acknowledge the need to make all such judgments about mental injury "with due regard" to the child's culture. Thus, a low IQ score should be evaluated within the context of the cultural distortion inherent in most measures of intelligence.

STATEMENT OF ASSURANCE

NOTE: Please do not attempt to complete this form without first reviewing the Program Instructions for making application for a State Child Abuse and Neglect Grant.

Applicable Section  
of CFR 1340

Statement .....

Statement No. 1

1340.1-2(b)

The State definition of "child abuse and neglect," is in accordance with all aspects of the following:

"Child abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare.

"Harm or threatened harm to a child's health or welfare" can occur through: Nonaccidental physical(1) or mental injury(2); sexual abuse, as defined by State law(3); or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter(4). Provided, however, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent(5).

"Child" means a person under the age of eighteen(6).

"A person responsible for a child's health or welfare" includes the child's parent(7), guardian (8) or other person responsible for the child's health or welfare(9), whether in the same home as the child(10), a relative's home(11), a foster care home(12) or a residential institution (13).

NOTE: Items numbered (1) through (13) indicate different aspects of the requirements for the definition.

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State Statutory Provision

Statement No. 2

1340.3-3(d)(1)

The State has in effect a State child abuse and neglect reporting law.

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State Statutory Provision

Statement No. 3

1340.3-3(d)(1)

The State provides all persons reporting known or reasonably (good faith) suspected instances of child abuse and neglect with immunity from civil and criminal prosecution under any State or local law, arising out of such reporting.

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State Statutory Provision

Statement No. 4

1340.3-3(d)(2)

The State provides for mandatory reporting by some persons(1) and permissive reporting by all persons(2) of known or suspected instances(3) of child abuse and neglect(4) to a properly constituted authority with the power and responsibility to perform an investigation (5) and take necessary ameliorative and protective steps as required in paragraph (d)(i) of section 1340.3-3(6).

NOTE: (1)-(5): These include the various aspects which must be satisfied in order to meet this requirement. Only the mandatory reporting provision (1) requires documentation from State law.

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State Statutory Provision

Statement No. 5

1340.3-3(d)(2)

The State provides that the reporting referred to in paragraph (d)(2)(i) must be to an agency other than the agency, institution or other facility involved in the acts or omissions, if the report of child abuse and neglect involves the acts or omissions of a public or private agency or other instituton or facility.

Statement No. 6

1340.3-3(d)(3)

The State provides that upon receipt of a known or suspected instance of child abuse or neglect an appropriate investigation is initiated promptly by a properly constituted authority to substantiate the accuracy of the report.

Statement of No. 7

1340.3-3(d)(3)

The State provides that, upon a finding of abuse or neglect, immediate steps are taken to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

Statement No. 8

1340.3-3(d)(4)

The State has in effect throughout the State such administrative procedures, such trained personnel, such training procedures, such institutional and other facilities (public and private) and such related multidisciplinary programs and services as may be necessary to assure effective enforcement of the child abuse and neglect laws, specifically including: provision for the receipt, investigation and verification of reports; provision for the determination of treatment or ameliorative social service needs; provision of such services; and, when necessary, resort to criminal or juvenile court.

Statement No. 9

1340.3-3(d)(5)

(a) The State provides by law for the preservation of the confidentiality of all records concerning reports of child abuse and neglect in order to protect the rights of the child, his parents or guardians.

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State Statutory Provision

(b) Unauthorized dissemination of the contents of the records concerning reports of child abuse and neglect is a crime.

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State Statutory Provision

Statement No. 10

1340.3-3(d)(6)

The State provides for the cooperation of law enforcement officials, courts of competent jurisdiction and all appropriate State agencies providing human services in relation to preventing, identifying and treating child abuse and neglect.

Statement No. 11

1340.3-3(d)(7)

The State provides that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem is appointed to represent the child in such proceeding.

Note: Please check one of the following and attach documentation.

- A State law that such appointments must be made in all cases.
- A State law which permits appointments and a Governor's statement that appointments are made in all cases.
- A State Attorney General's opinion that required appointments can be made and a Governor's statement that such appointments are made in all cases.
- A State Attorney General's opinion that the attorney charged with the presentation in a judicial proceeding is also required to represent the rights of the child where such responsibility is not indicated in law.

Statement No. 12

1340.3-3(d)(8)

The State provides that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds has not been reduced below the level provided during Federal fiscal year 1973.

Statement No. 13

1340.3-3(d)(8)

The State has policies and procedures designed to assure that Federal funds made available under this Act, for any fiscal year, will be used to supplement, and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects.

Applicable Section  
of CFR 1340

Statement

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Statement No. 14

1340.3-3(d)(9)

The State provides for dissemination of information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect.

Statement No. 15

1340.3-3(d)(10)

The State insures, to the extent feasible, that parental organizations combating child abuse and neglect, as recognized by the State, receive preferential treatment.

I HEREBY STATE AND ATTEST THAT the information supplied in this form is true, to the best of my information and belief, and that should any facts or circumstances leading to such information be modified, I shall, within 30 days, so inform the Department of Health and Human Services.

Dated \_\_\_\_\_

BY \_\_\_\_\_

Governor

# Federal Register

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Wednesday  
January 26, 1993

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## Part II

### Department of Health and Human Services

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Office of Human Development Services

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Child Abuse and Neglect Prevention and  
Treatment Program; Final Rule

**Final Rule**

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**Wednesday**  
**January 26, 1983**

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**Part II**

**Department of  
Health and Human  
Services**

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**Office of Human Development Services**

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**Child Abuse and Neglect Prevention and  
Treatment Program; Final Rule**

**Federal Register**

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**Wednesday  
January 26, 1983**

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**Part II**

**Department of  
Health and Human  
Services**

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**Office of Human Development Services**

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**Child Abuse and Neglect Prevention and  
Treatment Program; Final Rule**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Office of Human Development Services

**45 CFR Part 1340**

**Child Abuse and Neglect Prevention and Treatment Program**

**AGENCY:** Office of Human Development Services, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Department of Health and Human Services is issuing final regulations to implement the amendments to the Child Abuse Prevention and Treatment Act contained in Title 1 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, Pub. L. 95-266, as amended. The regulations also clarify, simplify and eliminate where repetitive of the statute, the rules governing the Child Abuse and Neglect Prevention and Treatment Program and those related to the coordination of Federal activities related to child abuse and neglect.

**EFFECTIVE DATE:** February 25, 1983.

**FOR FURTHER INFORMATION CONTACT:**

Jay Olson, Special Assistant to the Director, National Center on Child Abuse and Neglect, Room 2008D, Donohoe Building, 400 8th Street SW., P.O. Box 1182, Washington, D.C. 20013, (202) 245-2859.

**SUPPLEMENTARY INFORMATION**

**Background**

The Child Abuse Prevention and Treatment Act (Pub. L. 93-247) (the Act) (42 U.S.C. 5101 et seq.) was enacted in 1974. It established within the Department of Health, Education and Welfare (now the Department of Health and Human Services) the National Center on Child Abuse and Neglect. The National Center is organizationally located within the Children's Bureau of the Administration for Children, Youth and Families, Office of Human Development Services.

The National Center on Child Abuse and Neglect, through the Act, was given responsibility for:

- Compiling and disseminating an annual summary of recent and on-going research on child abuse and neglect.
- Developing and maintaining an information clearinghouse.
- Compiling, publishing and disseminating training materials.
- Providing technical assistance to public and nonprofit private agencies and organizations.
- Conducting research, and

- Making a complete and full study of the national incidence of child abuse and neglect.

The Act also authorized the Center to make grants or enter into contracts with public agencies or nonprofit private organizations for demonstration programs and projects designed to prevent, identify, and treat child abuse and neglect, as well as make grants to States to assist States in developing, strengthening and carrying out child abuse and neglect prevention and treatment programs.

Finally, the Act provided that the Secretary appoint an Advisory Board to assist in coordinating Federal programs and activities related to child abuse and neglect and develop Federal standards for child abuse and neglect prevention and treatment programs and projects.

Pub. L. 95-266, enacted on April 24, 1978, extended the Child Abuse Prevention and Treatment Act through September 30, 1981. It also amended the Act by adding, in Section 3, sexual exploitation to the definition of child abuse and neglect. As a result, States applying for a State child abuse and neglect grant under Section 4(b)(1) of the Act are required to include sexual exploitation in their definition of child abuse and neglect.

The Department published a Notice of Proposed Rulemaking (NPRM) on May 27, 1980 (45 FR 35794) to implement these amendments.

Subsequently, Title VI, Chapter 7, of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, extended the programs authorized by the Child Abuse Prevention and Treatment Act, Pub. L. 93-247, as amended, through Fiscal Years 1982 and 1983.

In addition to the changes in the regulation required by Pub. L. 95-266, the Department of Health and Human Services is taking this opportunity to clarify and simplify the existing regulation in accordance with the Secretary's regulatory reform principles. In this context, we have omitted from these final rules those provisions contained in the NPRM which merely repeat the statute.

**Discussion of Major Comments and Changes**

The Department received approximately 60 comments from 24 agencies, organizations and individuals in response to the NPRM published on May 27, 1980 (45 FR 35794). Included below is a summary of the major comments from respondents, our response to those comments, and a discussion of the changes that we have made in the regulations.

**Subpart A—General Provisions**

**Section 1340.1 Purpose and Scope**

Section 1340.1(b)(3) authorizes the National Center on Child Abuse and Neglect to make grants or contracts for research, demonstration, and service improvement programs and projects. Eligibility for an award of a grant or contract in these specific areas is governed by the Act and is different for research applicants and demonstration and service improvement applicants. Therefore, the phrase "with public or private agencies and organizations" has been deleted as it pertained to only one category of eligible applicant; also there is no need to repeat the Statute.

**Section 1340.2 Definitions**

There were a number of supportive comments for many provisions of the proposed regulation. This included support for the definition of child abuse and neglect contained in § 1340.2.

**Definition of Sexual Abuse and Sexual Exploitation (§ 1340.2(d) (1) and (2))**

**Comment.**—Some respondents were particularly concerned about the possibility that States may need a legislative change to include sexual exploitation in their definition of child abuse and neglect. (The definition of child abuse and neglect specifies the reportable conditions or situations of child maltreatment.)

**Response.**—The 1978 amendments to the Child Abuse Prevention and Treatment Act added "sexual exploitation" to the definition of child abuse and neglect in the Act (42 U.S.C. 5102). The current regulations include within the definition of "child abuse and neglect" the phrase "sexual abuse as defined by State law." In order to avoid confusion in the meaning of the terms "sexual abuse" and "sexual exploitation" we added definitions for each of these terms in the Notice of Proposed Rulemaking (see § 1340.2(d) (1) and (2)).

A State is not required to have the words "sexual abuse" and "sexual exploitation" in its State statute as long as the State statute covers the conditions and situations described in the definition of these terms in these regulations. If a State needs to amend its statute to include sexual exploitation as a reportable condition, it has until the close of the second general legislative session of the State legislature that convenes after the effective date of these regulations to do so (see § 1340.13(a)(1)). We believe that the definitions of "sexual abuse" and "sexual exploitation" in these

regulations implement the intent of Congress, to assure that the various forms of sexual mistreatment of children are reported. In addition, we believe the provision that allows States that do not now provide for the reporting of sexual exploitation a reasonable period of time to amend their statutes is a fair and reasonable method of enabling them to comply with the requirements of the Act.

**Comment.**—Concern was also expressed that the phrase "for commercial purposes" limited the definition of sexual exploitation. Commentors asserted that sexual exploitation for commercial purposes omits sexually exploitive acts by those persons using children for non-commercial purposes, e.g., out of a deviant interest and desire for personal gratification.

**Response.**—We agree. Therefore, in § 1340.2(d)(2), we have dropped the words "for commercial purpose," from the definition as proposed in the NPRM. It is our intent to include within this new definition all sexual exploitation of children.

#### *Definition of Negligent Treatment* (§ 1340.2(d)(3))

**Comments.**—We received strong recommendations that the definition of "negligent treatment or maltreatment" be expanded to include failure to provide medical care.

**Response.**—We have reviewed this matter and agree with the recommendation. The definition of negligent treatment or maltreatment in a majority of State reporting laws now includes the failure of parents or caretakers to provide adequate food, clothing, shelter and medical care. Thus, the basic needs of children are identified in most State statutes; failure to supply these necessities of life are cause to make a report to the agency mandated by statute to investigate reported cases of child abuse and neglect.

Also, recent events in which parents or guardians failed to provide needed medical care or treatment to handicapped infant children who later died suggest that legal protections are needed for these infants.

In addition, the language of the Child Abuse Prevention and Treatment Act, as amended, supports the inclusion of failure to provide adequate medical care as a reportable condition. Section 3 of the Act (42 U.S.C. 5102) defines "child abuse and neglect" to cover acts or situations constituting abuse or neglect which occurs "under circumstances which indicates that the child's health or welfare is harmed or threatened

thereby \* \* \*." Section 4(b)(2)(C) of the Act (42 U.S.C. 5103(b)(2)(C)) provides that "upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect; \* \* \*"

Legislative history also reflects Congressional concern about the need to provide specific medical treatment for a child, unless it is not provided for religious reasons, by persons responsible for the child's health or welfare. The Report of the House Education and Labor Committee contains the following:

The Committee recognized that "negligent treatment" is difficult to define, but it is not the intent of the Committee that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specific medical treatment for a child is for that reason alone considered to be a negligent parent. To clarify further, no parent or guardian who in good faith is providing to a child treatment solely by spiritual means such as prayer according to the tenets and practices of a recognized church through a duly accredited practitioner shall for that reason alone be considered to have neglected the child. (H. Rep. 93-885, 93rd Cong., 1st Sess. (1973), pp. 4-5). (Emphasis in original)

In light of these factors and the need to insure the protection of children's health, we have included the failure to provide adequate medical care as a part of the definition of negligent treatment in § 1340.2(d)(3). If a State needs to amend its statute to include the "failure to provide adequate medical care" as a reportable condition, it has until the close of the second general legislative session of the State legislature following the effective date of these regulations to do so.

The definition of "harm or threatened harm to a child's health or welfare" in the existing regulations, 45 CFR 1340.1-2(b)(1), contains a religious exception which was interpreted by the Department to be an eligibility requirement for a State grant under Section 4(b)(2) of the Act (42 U.S.C. 5103(b)(2)). This is an exception which provides that a parent or guardian who does not provide medical treatment for a child because of the parent's religious beliefs is not considered, for that reason alone, to be a negligent parent or guardian.

The religious exception in the proposed regulations appeared as a "Note" to the definition of 'negligent treatment or maltreatment' in § 1340.2(3) and was intended to be retained as an eligibility requirement for a State grant. That "Note" exempted a parent or

guardian from being considered to have neglected his/her child if medical treatment is not provided because the parent or guardian is legitimately practicing his/her religious beliefs.

Eight respondents commented on this "Note" to the definition of "negligent treatment or maltreatment". Two respondents agreed with the deletion of the clause included in the current regulations, which recognizes the power of a court to require medical treatment over the religiously-based objections of the parent or guardian. These respondents also conveyed the satisfaction that had been expressed to them by the Christian Science Church with this part of the proposed regulation. One respondent requested that the substance of the "Note" be clearly stated as a regulation or be deleted.

Five of the respondents objected to this exemption and urged its removal from the proposed regulations. They presented several reasons for removing the proposed religious exemption from final regulations. Four respondents claimed that some children suffer and die as a result of their parents relying on spiritual healing under circumstances in which medical treatment could have prevented such results. Two respondents added that the religious exception impedes discovery of cases so that even if courts retain their power to order medical treatment, the exercise of that power often comes too late. Three respondents argued that all children deserve the protection of the law, with two of them observing that the religious exception served to deny children their constitutional right to life and to equal protection of the law. One respondent was also of the opinion that the religious exception inhibited criminal prosecution of parents, even if their child had died as a result of the failure to provide medical treatment. Another suggested that there should be a religious exception from criminal prosecution, but not one that impedes protective action under civil law. Finally, one respondent called attention to the fact that objections had been raised to the inclusion of the religious exception in the current regulations and that objections continue to be presented.

**Response.**—All of these responses were considered in the context of the Act, the regulation and the legislative history of the Act [H.R. Report No. 93-885, November 30, 1973, 93rd Congress, 1st Session (1973)]. The latter reported to the House of Representatives the bill that became the Child Abuse Prevention and Treatment Act, and contained a statement supporting a religious exception. As enacted, however, the Act

contained eligibility requirements for grants under Section 4(b)(2) (42 U.S.C. 5103(b)(2)); but did not include among them a religious exception. The Notice of Proposed Rulemaking of August 28, 1974 (39 FR 31507) to implement the Act included a religious exception as part of the definition of "child abuse and neglect." Although the Department received objections to this exception it concluded that the exception was intended by Congress. Consequently, in order to receive grant under Section 4(b)(1) of the Act (42 U.S.C. 5103(b)(1)), States were required to have a religious exception in their statutes or to certify their recognition of an exception by a State Attorney General's opinion. In 1978, when the Congress reauthorized the Act, it passed several amendments, including one that modified the definition of "child abuse and neglect." Again, however, the legislation failed to include mention of a religious exception. It was nonetheless included in the proposed regulations and elicited the comments noted above.

In light of this history and the objections of respondents, we have reexamined the legal support for a religious exception as an eligibility requirement under Section 4(b)(2) of the Act (42 U.S.C. 5103(b)(2)). We have concluded that such an eligibility provision is not required by the Act. Therefore, § 1340.2(d)(3)(ii) of the final regulation states that the regulations are not to be construed as prohibiting or requiring a finding of negligent treatment or maltreatment when a parent practicing his/her religious beliefs does not, for that reason alone, provide medical treatment for a child. Thus, States are free to recognize or not recognize a religious exception without that choice having any effect on eligibility for a State child abuse grant. The regulation provides at § 1340.2(d)(3)(ii) that if under State law a finding of negligent treatment is prohibited when medical treatment is withheld for religious reasons, that prohibition does not limit the authority of the State to insure that needed medical treatment is provided.

#### *Definition of Threatened Harm* (§ 1340.2(d)(4))

*Comments.*—One respondent requested that the regulation clarify the definition of "threatened harm to a child's health or welfare," which the proposed regulation defined as "a substantial risk of harm to the child's health or welfare." It was suggested that some less ambiguous term be used.

*Response.*—As there were no additional suggestions for changing or clarifying this definitional term and

because we could find no substitute language which seemed to be clearer, it was decided that no change would be made.

"Threatened harm" is a part of the definition of child abuse and neglect in both the Act and regulations. The NPRM defined threatened harm to mean a substantial risk of harm to the child's health or welfare. The Act defines child abuse and neglect so as to include acts or omissions including child abuse, sexual abuse and child neglect by persons responsible for a child's welfare under circumstances which indicate harm or threatened harm to the health or welfare of the child. (42 U.S.C. 5102.) The reasons for the inclusion of "threatened harm" is based on the premise that society should not have to wait until a child is actually injured before protective action is taken. At the same time we recognize that, in some instances the harm that is threatened is not of a sufficient degree to necessitate State intervention. The term "substantial risk" is used to clarify that a State need not intervene until, in its judgment, the threat of harm to the child is real and significant.

#### *Definition of a Person Responsible for a Child's Welfare* (§ 1340.2(d)(6))

*Comments.*—The proposed regulation defined "a person responsible for a child's welfare" to include those persons responsible for around the clock care of children (§ 1340.2(5), now § 1340.2(d)(6)). A suggestion was made to add others to this definition such as teachers and employees of public or private institutions.

*Response.*—For children in settings which provide less than 24-hour care such as day care centers and schools, we believe that primary reliance should be placed on parents to protect their own children by voicing their concerns to school officials or seeking criminal action. Therefore, we do not believe a change in the language of the regulation to include personnel of day care centers and schools is necessary or desirable.

#### *Coordination Requirements* (§ 1340.4)

We have added a new § 1340.4 to the final rules which requires that all Federal agencies responsible for programs related to child abuse and neglect must provide information as required by the Commissioner to insure effective coordination of effort.

This is not a new requirement but is derived from Subpart D as proposed in the NPRM.

#### *Subpart D—Grants to States*

##### *Section 1340.11 Allocation of Funds Available*

*Comment.*—One comment suggested that the amount of State grant funds available for States that do not apply or are found ineligible should be allocated among the eligible States, deleting the second option in the proposed regulation that would permit the Commissioner of ACYF to authorize the use of funds "for such other purposes under the Act."

*Response.*—The suggestion is consistent with our current practices. Therefore, we have revised the regulation to limit reallocation of State grant funds to eligible States.

##### *Section 1340.12 Application Process*

We have deleted § 1340.12(b) of the NPRM which provided for the solicitation of State grant applications each Federal fiscal year by a publication in the Federal Register of a "Notice of Availability of funds for State grants." Since the only eligible applicants for State grants are the State agencies designated by the Governor to apply for such funds (§ 1340.12(a)), we have eliminated the annual Federal Register Notice effective in fiscal year 1982. Instead, we have substituted a specific program instruction, mailed directly to the appropriate State agencies, which includes necessary application forms, allocations and deadline for submission of the State grant application.

*Comment.*—A suggestion was made that eligible applicants for State grants include local public housing authorities.

*Response.*—State grants are made only to States. However, local public housing authorities may apply for a demonstration, research or service improvement grant under Section 2(b)(5) or Section 4 of the Act (42 U.S.C. 5101(b)(5) or 42 U.S.C. 5103).

##### *Section 1340.14 Eligibility Requirements*

*Comments.*—Some commentors objected to the deletion of the language found in the current regulation at 45 CFR 1340.3-3(b) pertaining to the definition of child abuse and neglect. That section explains that definitions of child abuse and neglect used by States which are the "same in substance" as the ones set forth in the regulation will be sufficient to meet Federal definitional requirements.

*Response.*—The language was deleted from the proposed regulations as unnecessary. However, respondents correctly pointed out that State laws never been required to have language identical to the Act or regulation.

order to qualify for a grant. Therefore, we will retain the language of the current regulation in § 1340.14, to provide that a State's definition of child abuse and neglect which is the same in substance as the one set forth in the regulation will be acceptable.

Section 1340.14 of the proposed regulation also contained an elaboration of the ten eligibility requirements which a State must satisfy to qualify for a State grant. However, after more careful review of Section 4 (b) (2) of the Act, it was our decision not to repeat the provisions of the Act in regulations. Therefore, those requirements in the NPRM which duplicate the language of the Act have been eliminated. Of course, the requirements of the Act in Section 4 (b) (2) remain fully applicable.

Section 1340.14(c) of the NPRM providing immunity for persons reporting instances of child abuse and neglect from prosecution has been deleted because it duplicates the language of the Act in Section 4(b) (2) (A).

*Comment.*—One respondent requested further clarification of what was meant by a "different properly constituted authority" in § 1340.14(e).

*Response.*—In instances of child abuse and neglect that occur in an institutional setting, the investigating agency must be separate enough from the agency alleged to have abused or neglected a child to ensure an adequate impartial and objective investigation. This means that the State agency having responsibility for the investigation of reports of abuse or neglect may not investigate reported instances of child abuse or neglect made against institutions operated by that agency.

The same respondent also asked whether the State agency responsible for investigating allegations of institutional child abuse can investigate a reported instance of child abuse and neglect if the alleged abuse or neglect was by a contract vendor or purchase of service provider.

It is acceptable for the State mandated agency responsible for investigating reports of known and suspected instances of child abuse or neglect to investigate reports from residential facilities as long as such facilities do not have on their staff employees from the mandated agency and are not directly operated by the mandated agency. As these comments were related to the respondent's request for clarification of the meaning of the regulation we believe that no change in the regulation is necessary.

Section 1340.14(h) was revised by omitting that language which was duplicative of the Act. Sections

1340.14(i), (j), (k) and (l) were omitted as they were duplicative of provisions in the Act.

*Comment.*—Comments on § 1340.14(g) which mandates the appointment of a guardian *ad litem* in all judicial proceedings, involving an abused or neglected child, were concerned about: (1) The appropriateness of the person presenting the evidence in a judicial proceeding also serving as the guardian *ad litem*; and (2) the absence of a provision which would permit a State to satisfy the guardian *ad litem* requirement by court rule.

*Response.*—On the basis of the comments received we are making two changes in § 1340.14(g). First, we are eliminating as a person who may serve as a guardian *ad litem* the attorney who presents the evidence in a judicial proceeding alleging child abuse or neglect. This was done to eliminate the possibility of conflicting roles as there is serious question about having a presenter of the evidence also serve as a child's guardian *ad litem*.

Secondly, a State may elect to promulgate Court Rules mandating the appointment of a guardian *ad litem* in judicial proceedings. This will now be an added option for the State in satisfying the guardian *ad litem* requirement.

**Subpart C—Discretionary Grants and Contracts**

There were no comments from respondents on Subpart C of the NPRM. Two of the three sections in this Subpart proposed in the NPRM have been eliminated from the final rule because they duplicate the language of the Act in Sections 2(b) and 4(b)(1) (discretionary grants and contracts). Only the provision regarding confidentiality (§ 1340.20) has been retained in Subpart C to afford the same protection of personal facts or circumstances about individuals involved in discretionary projects or programs as is provided to individuals under the State grant program.

**Subpart D—Coordination of Federal Activities**

Except for the coordination requirements for Federal agencies which now appears in new § 1340.4, we have eliminated Subpart D. We do not believe it is necessary to publish the administrative and procedural requirements for the Advisory Board in regulations.

**Impact Analysis**

**Executive Order 12291**

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of \$100 million or more, or certain other specified effects. The Department concludes that this final rule is not a major rule within the meaning of the Executive Order because it does not have an effect on the economy of \$100 million or more or otherwise meet the threshold criteria.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act of 1980, Pub. L. 96-354, requires that an agency prepare a regulatory flexibility analysis for a proposed rule, or a final rule issued after a proposal, if a rule would have a significant economic impact on a substantial number of small businesses, small nonprofit organizations, or small governmental jurisdictions. However, this requirement does not apply to final rules for which a proposed rule was published before January 1, 1981 (section 4 of the Regulatory Flexibility Act). Because the proposed rule that preceded this final rule was published earlier, an analysis is not required under the Regulatory Flexibility Act.

**Recordkeeping and Reporting Requirements**

Under the Paperwork Reduction Act of 1980 the Department is required to submit to the Office of Management and Budget, for review and approval, any information collection or reporting requirement. Reporting requirements within § 1340.3(a) and 1340.12 requiring OMB approval, which was granted, are:

Section	Reporting requirements	Form/OMB Nos	Expiration date
1340.3(a)—Application of department-wide regulations.	45 CFR 74.73, Financial Status Report.	SF-268, 0980-0122...	10/31/83
1340.12—Application process.	State grant application.	SF-424, 0980-0016...	2/28/84

**List of Subjects in 45 CFR Part 1340**

Child welfare, Family violence, Grant programs—health, Grant programs—social programs, Reporting requirements, Research, Technical assistance, Youth.

(Catalog of Federal Domestic Assistance Program No. 13.828, Child Abuse and Neglect Prevention and Treatment)

Dated: July 20, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: JANUARY 4, 1983.

Richard S. Schwalker,

Secretary.

For the reasons set forth in the preamble, Part 1340 of 45 CFR is revised to read as follows:

## PART 1340—CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT

### Subpart A—General Provisions

Sec.

1340.1 Purpose and scope.

1340.2 Definitions.

1340.3 Applicability of Department-wide regulations.

1340.4 Coordination requirements.

### Subpart B—Grants to States

1340.10 Purpose of this subpart.

1340.11 Allocation of funds available.

1340.12 Application process.

1340.13 Approval of applications.

1340.14 Eligibility requirements.

### Subpart C—Discretionary Grants and Contracts

1340.20 Confidentiality.

Authority: The Child Abuse Prevention and Treatment Act Pub. L. 93-247, 88 Stat. 4; Pub. L. 95-266, 92 Stat. 205; Secs. 609-610, Pub. L. 97-35, 95 Stat. 488 (42 U.S.C. 5101 et seq.)

### Subpart A—General Provisions

#### § 1340.1 Purpose and scope.

(a) This part implements the Child Abuse Prevention and Treatment Act of 1974, as amended. As authorized by the Act, the National Center on Child Abuse and Neglect seeks to assist agencies and organizations at the national, State and community levels in their efforts to improve and expand child abuse and neglect prevention and treatment activities.

(b) The National Center on Child Abuse and Neglect seeks to meet these goals through:

(1) Conducting activities directly (by the Center);

(2) Making grants to States to improve and expand their child abuse and neglect prevention and treatment programs;

(3) Making grants to and entering into contracts for: Research, demonstration; and service improvement programs and projects, and training, technical assistance and informational activities; and

(4) Coordinating Federal activities related to child abuse and neglect. This part establishes the standards and procedures for conducting the grant funded activities and contract and coordination activities.

(c) Requirements related to child abuse and neglect applicable to programs assisted under titles IV-A and IV-B of the Social Security Act are implemented by regulation at 45 CFR Part 1392, Subpart E.

(d) Federal financial assistance is not available under the Act for the construction of facilities.

#### § 1340.2 Definitions

For the purposes of this part:

(a) "A properly constituted authority" is an agency with the legal power and responsibility to perform an investigation and take necessary steps to prevent and treat child abuse and neglect. A properly constituted authority may include a legally mandated, public or private child protective agency, or the police, the juvenile court or any agency thereof.

(b) "Act" means the Child Abuse Prevention and Treatment Act, 42 U.S.C. 5101, et seq.

(c) "Center" means the National Center on Child Abuse and Neglect established by the Secretary under the Act to administer this program.

(d) "Child abuse and neglect" means the physical or mental injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term encompasses both acts and omissions on the part of a responsible person.

(1) "Sexual abuse" includes rape, incest, and sexual molestation as those acts are defined by State law, by a person responsible for the child's welfare.

(2) "Sexual exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution, as defined by State law, by a person responsible for the child's welfare; and allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming, or depicting of a child as those acts are defined by State law, by a person responsible for the child's welfare.

(3)(i) "Negligent treatment or maltreatment" includes failure to provide adequate food, clothing, shelter, or medical care.

(ii) Nothing in this Part should be construed as requiring or prohibiting a finding of negligent treatment or maltreatment when a parent practicing

his or her religious beliefs does not, for that reason alone, provide medical treatment for a child; provided, however, that if such a finding is prohibited, the prohibition shall not limit the administrative or judicial authority of the State to insure that medical services are provided to the child when his health requires it.

(4) "Threatened harm to a child's health or welfare" means a substantial risk of harm to the child's health or welfare.

(5) "A person responsible for a child's welfare" includes the child's parent, guardian, foster parent, an employee of a public or private residential home or facility or other person legally responsible under State law for the child's welfare in a residential setting.

(e) "Commissioner" means the Commissioner of the Administration for Children, Youth and Families of the Department of Health and Human Services.

(f) "Grants" includes grants and cooperative agreements.

(g) "Secretary" means the Secretary of Health and Human Services, or other HHS official or employee to whom the Secretary has delegated the authority specified in this part.

(h) "State" means each of the several States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific.

#### § 1340.3 Applicability of Department-wide regulations.

(a) The following HHS regulations are applicable to all grants made under this part:

- 45 CFR Part 18—Procedures of the Departmental Grant Appeals Board.
- 45 CFR Part 46—Protection of human subjects
- 45 CFR Part 74—Administration of grants
- 45 CFR Part 75—Informal grant appeals procedures
- 45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—effectuation of Title VI of the Civil Rights Act of 1964
- 45 CFR Part 81—Practice and procedure for hearings under Part 80
- 45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.

(b) The following regulations are applicable to all contracts awarded under this part:

- 47 CFR Chapter 1—Federal procurement regulations.
- 41 CFR Chapter 3—Federal procurement regulations—Department of Health and Human Services.

**§ 1340.4 Coordination requirements.**

All Federal agencies responsible for programs related to child abuse and neglect shall provide information as required by the Commissioner to insure effective coordination of efforts.

**Subpart B—Grants to States****§ 1340.10 Purpose of this subpart.**

This subpart sets forth the requirements and procedures States must meet in order to receive discretionary grants to improve or expand State child abuse and neglect prevention and treatment programs under sections 4(b) (1) and (2) of the Act (42 U.S.C. 5103(b) (1) and (2)).

**§ 1340.11 Allocation of funds available.**

(a) The Commissioner shall allocate the funds available for grants to States for each fiscal year among the States on the basis of the following formula:

(1) An amount of \$25,000 or such other amount as the Commissioner may determine; plus

(2) An additional amount bearing the same ratio to the total amount made available for this purpose (reduced by the minimum amounts allocated to the States under paragraph (a)(1) of this section) as the number of children under the age of eighteen in each State bears to the total number of children under eighteen in all the States. Annual estimates of the number of children under the age of eighteen, provided by the Bureau of the Census of the Department of Commerce, are used in making this determination.

(b) If a State has not qualified for assistance under the Act and this subpart prior to a date designated by the Commissioner in each fiscal year, the amount previously allocated to the State shall be allocated among the eligible States.

**§ 1340.12 Application process.**

(a) The Governor of the State may submit an application or designate the State office, agency, or organization which may apply for assistance under this subpart. The State office, agency, or organization need not be limited in its mandate or activities to child abuse and neglect.

(b) Grant applications must include a description of the activities presently conducted by the State and its political subdivisions in preventing and treating child abuse and neglect, the activities to be assisted under the grant, a statement of how the proposed activities are expected to improve or expand child abuse prevention and treatment programs in the State, and other information required by the

Commissioner in compliance with the paperwork reduction requirements of 44 U.S.C. Chapter 35 and any applicable directives issued by the Office of Management and Budget.

(c) States shall provide with the grant application a statement signed by the Governor that the State meets the requirements of the Act and of this subpart. This statement shall be in the form and include the documentation required by the Commissioner.

**§ 1340.13 Approval of applications.**

(a) The Commissioner shall approve an application for an award for funds under this subpart if he or she finds that:

(1) The State is qualified and has met all requirements of the Act and § 1340.14 of this Part, except for the definitional requirement of § 1340.14(a) with regard to the definition of "sexual exploitation" (see § 1340.2(2)) and the definitional requirement of negligent treatment as it relates to the failure to provide adequate health care (see 1340.2(d)(3)). The State must include these two definitional requirements in its definition of child abuse and neglect no later than the close of the second general legislative session of the State legislature following February 25, 1983;

(2) The funds are to be used to improve and expand child abuse or neglect prevention or treatment programs; and

(3) The State is otherwise in compliance with these regulations.

(b) At the time of an award under this subpart, the amount of funds not obligated from an award made eighteen or more months previously shall be subtracted from the amount of funds under the award, unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

**§ 1340.14 Eligibility requirements.**

In order for a State to qualify for an award under this subpart, the State must satisfy each of the following requirements:

(a) The State must satisfy each of the requirements provided in Section 4(b)(2) of the Act.

(b) *Definition of Child Abuse and Neglect.* Wherever the requirements below use the term "Child Abuse and Neglect" the State must define that term in accordance with § 1340.2. However, it is not necessary to adopt language identical to that used in § 1340.2, as long as the definition used in the State is the same in substance.

(c) *Reporting.* The State must provide by statute that specified persons must report and by statute or administrative procedure that all other persons are permitted to report known and

suspected instances of child abuse and neglect to a child protective agency or other properly constituted authority.

(d) *Investigations.* The State must provide for the prompt initiation of an appropriate investigation by a child protective agency or other properly constituted authority to substantiate the accuracy of all reports of known or suspected child abuse or neglect. This investigation may include the use of reporting hotlines, contact with central registers, field investigations and interviews, home visits, consultation with other agencies, medical examinations, psychological and social evaluations, and reviews by multidisciplinary teams.

(e) *Institutional child abuse and neglect.* The State must have a statute or administrative procedure requiring that when a report of known or suspected child abuse or neglect involves the acts or omissions of the agency, institution, or facility to which the report would ordinarily be made, a different properly constituted authority must receive and investigate the report and take appropriate protective and corrective action.

(f) *Emergency services.* If an investigation of a report reveals that the reported child or any other child under the same care is in need of immediate protection, the State must provide emergency services to protect the child's health and welfare. These services may include emergency caretaker or homemaker services; emergency shelter care or medical services; review by a multidisciplinary team; and, if appropriate, criminal or civil court action to protect the child, to help the parents or guardians in their responsibilities and, if necessary, to remove the child from a dangerous situation.

(g) *Guardian ad litem:* In every case involving an abused or neglected child which results in a judicial proceeding, the State must insure the appointment of a guardian ad litem or other individual whom the State recognizes as fulfilling the same functions as a guardian ad litem, to represent and protect the rights and best interests of the child. This requirement may be satisfied: (1) By a statute mandating the appointments; (2) by a statute permitting the appointments, accompanied by a statement from the Governor that the appointments are made in every case; (3) in the absence of a specific statute, by a formal opinion of the Attorney General that the appointments are permitted, accompanied by a Governor's statement that the appointments are made in every case; or (4) by the State's

Uniform Court Rule mandating appointments in every case. However, the guardian *ad litem* shall not be the attorney responsible for presenting the evidence alleging child abuse or neglect.

(h) *Prevention and treatment services:* The State must demonstrate that it has throughout the State procedures and services deal with child abuse and neglect cases. These procedures and services include the determination of social service and medical needs and the provision of needed social and medical services.

(i) *Confidentiality.* (1) The State must provide by statute that all records concerning reports and reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense.

(2) If a State chooses to, it may authorize by statute disclosure to any or all of the following persons and agencies, under limitations and procedures the State determines:

(i) The agency (agencies) or organizations (including its designated multidisciplinary case consultation team) legally mandated by any Federal or State law to receive and investigate reports of known and suspected child abuse and neglect;

(ii) A court, under terms identified in State statute;

(iii) A grand jury;

(iv) A properly constituted authority (including its designated multidisciplinary case consultation team) investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of a report;

(v) A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected;

(vi) A person legally authorized to place a child in protective custody when the person has before him or her a child whom he or she reasonably suspects may be abused or neglected and the person requires the information in the report or record in order to determine whether to place the child in protective custody;

(vii) An agency authorized by a properly constituted authority to diagnose, care for, treat, or supervise a child who is the subject of a report or record of child abuse or neglect;

(viii) A person who is responsible for the child's welfare, with protection for the identity of any person reporting known or suspected child abuse or neglect and any other person where the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of such person;

(ix) A child named in the report or record alleged to have been abused or neglected or (as his/her representative) his/her guardian or guardian ad litem;

(x) An appropriate State or local official responsible for administration of the child protective service or for oversight of the enabling or appropriating legislation, carrying out his or her official functions; and

(xi) A person, agency, or organization engaged in a bonafide research or evaluation project, but without information identifying individuals

named in a report or record unless having that information open for review is essential to the research or evaluation, the appropriate State official gives prior written approval, and the child, through his/her representative as cited in paragraph (i), gives permission to release the information.

(3) Nothing in this section shall be interpreted to prevent the properly constituted authority from summarizing the outcome of an investigation to the person or official who reported the known or suspected instances of child abuse or neglect or to affect a State's laws or procedures concerning the confidentiality of its criminal court or its criminal justice system.

(4) HHS and the Comptroller General of the United States or any of their representatives shall have access to records, as required under 45 CFR 74.24.

#### Subpart C—Discretionary Grants and Contracts

##### § 1340.20 Confidentiality.

All projects and programs supported under the Act must hold all information related to personal facts or circumstances about individuals involved in those projects or programs confidential and shall not disclose any of the information in other than summary, statistical, or other form which does not identify specific individuals, except in accordance with § 1340.14(i).

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BILLING CODE 4130-01-M



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

November 7, 1983

MEMORANDUM

TO: Representative Peter Goll

FROM: Heidi Borson/Jay Livey  
Legislative Analysts

RE: Child Abuse  
Research Request 83-202

In response to your request, this memorandum provides information on the following topics:

- various ways the State currently intervenes in child abuse situations, modes of treatment and their effectiveness;
- model treatment and prevention programs in other states and their applicability in Alaska; and
- a description of the State's delivery of social services related to child abuse and other family issues to District 2 communities.

Because of the scope of this request, we have divided this memorandum into three sections which correspond to the topics outlined above.

## SUMMARY OF FINDINGS

### Intervention in Child Abuse Situations

- The legal authority which allows the State to intervene in child abuse and neglect situations is found Title 47, Chapter 10 of the Alaska Statutes.

- Intervention consists of three main steps:

Intake - initial contact with the case, preliminary investigation and assessment, initial development of the case plan;

Case Management - monitoring the progress of the treatment plan; and

Placement - removing the child from the home. A special provision in the Indian Child Welfare Act governs the placement of Native children.

### Effectiveness of Treatment Programs

- Most professionals feel that the State effectively protects children in abuse situations and concludes investigations rapidly. Some criticism was voiced that investigations are incomplete.
- One suggestion called for a change in placement laws to give the courts more flexibility in placement decisions.
- Many professionals argue that stronger efforts should be made to maintain the family. Some believe that the case management approach is not tailored to the family and does not respond well to potential abuse situations. Professionals also cite a lack of State resources committed to child abuse.
- Social service professionals are enthusiastic about the home based services approach to maintaining the family; this approach offers comprehensive services such as counselling, day care, homemaker services, alcohol and drug rehabilitation and vocational training to families in the home. Fewer cases are assigned to case workers involved with home services to allow for the increase in the intensity of services.
- Service providers agree that in order to break the cyclical nature of child abuse more emphasis must be put on prevention and early intervention.

- Prevention programs in small communities and public schools were recommended. Support was also voiced for a statewide assessment of existing child abuse treatment and prevention services as a basis for development of a State prevention and treatment plan.

#### Program Alternatives for Alaska

- Each year, the U.S. Department of Health and Human Services issues research/demonstration grants and state grants through the National Center on Child Abuse and Neglect. Groups in Alaska may apply for research/demonstration grants, but Alaska is not eligible to receive yearly state grants because its child abuse reporting statute does not mandate reporting emotional abuse.
- Recently, many states have enacted laws concerning child abuse and neglect which reflect an interest in long-term, innovative funding approaches, and a shift in emphasis from treatment to prevention, and from State to local delivery of services.
- Twelve states have implemented children's trust fund legislation to fund child abuse prevention programs through license surcharges or designated income tax refunds. The Alaska State Constitution prohibits dedicating funds, but Alaska could implement a trust fund by appropriating money from the general fund.
- Alaska could also change its mandatory reporting law by including emotional abuse, providing a penalty for failing to make a mandatory report, and including language to institute child protection teams and increased public education.
- Various model treatment and prevention programs abound on federal, state, and local levels. These include support groups, media programs, coordinated community services, training abusive parents to work as child care providers, home based services, and emergency child care services.

#### Delivery of Services to District 2

- The Division of Family and Youth Services (DFYS) is soliciting bids for a comprehensive study of services in the Southeast for child abuse and related family problems.
- Services provided by DFYS are divided into two groups: social services and youth services. Recipients of social services are designated as "children in need of aid", and are assigned social workers. Youth services recipients are adjudicated as "delinquent", and are assigned probation officers. Services to most communities in District 2 are provided out of field offices.

## INTERVENTION AND TREATMENT IN ALASKA

### INTERVENTION IN CHILD ABUSE SITUATIONS

The legal authority that allows the State to intervene in child abuse or neglect situations is found in Title 47, Chapter 10 of the Alaska Statutes. This chapter assigns the responsibility for compliance with the law to the Department of Health and Social Services (DHSS). Within this department, the Division of Family and Youth Services (DFYS) has functional responsibility for child abuse and neglect. To implement the statutes, the DHSS has developed an administrative manual that details the procedures used by the DFYS personnel to comply with State law. The intervention process consists of the following general steps: intake, case management and placement.

#### Intake

Intake is a multi-step procedure that involves the initial contact with the case, preliminary investigation and assessment, initial determination and development of the case plan.

Initial Reporting. Alaska has a mandatory reporting law [AS 47.17]. This means that certain practitioners and people in specified occupations are required to report suspected cases of abuse and neglect to the DHSS. Those required to report include: practitioners of the healing arts, school teachers, social workers, public safety officers and administrative officers of institutions. People who make a report in good faith under this chapter are immune from any civil or criminal liability that otherwise might result from the report. In some areas of the State, there may be no representative of the DHSS to receive the report of suspected abuse. In these cases, the report can be made to a peace officer who notifies the DHSS as soon as possible.

Deanne Grummet<sup>1</sup> of the DFYS office in Juneau feels that the majority of reports which come to that office are from schools, but frequent reports also come from day care providers and neighbors. In some cases, voluntary reports are received from parents who are afraid they are out of control and are potentially abusive. The DHSS is obligated to investigate all reports regardless of the source.

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<sup>1</sup> Ms. Deanne Grummet, Division of Family and Youth Services, Juneau Regional Office; 515 Willoughby Avenue, 586-1861.

Investigation and Assessment. Upon receipt of a report of child abuse, the DHSS can either investigate the report itself or refer the report to a local health agency [AS.47.17.030]. In either case, an investigation must be done in accordance with Alaska Statutes and the DHSS administrative manual. This manual describes the particular steps to be taken in the investigation, the information to be gathered by the investigation and the time frame in which the investigation must take place. The purpose of this investigation is to gather enough information to make an initial determination as to the validity of the case and to determine if the child is in danger.

The investigation generally requires interviews with the parents and the child. Critics have charged that this investigation is an invasion of family privacy, especially in cases in which the initial report was from an anonymous source. Most professionals involved in child abuse situations, however, feel that reports of abuse must be investigated to protect the child and maintain the credibility of the reporting law. If this law is not enforced, they feel that more child abuse would go undetected.

Disposition of Initial Determination. This stage in the intake process refers to the decision of the social worker concerning the disposition of the case. The basic decision is whether to continue the case or to close it. DHSS regulations state that this determination shall be made within thirty days of the initial case contact.

Treatment Plan. After the initial determination, the case worker may wish to continue the assessment of the case. According to DHSS regulations, this must be concluded within sixty days from the date of the initial contact. This assessment and the facts gathered in the initial investigation are used to formulate the case plan. This plan will vary depending on the specific elements of the case, but in general, will be designed to protect the child and maintain the family unit if possible.

A variety of treatment options are used by the DFYS. These range from individual counselling to backup services (such as homemaker and day care) to out of home placements in foster homes and institutions. Whenever possible, the plan should be accepted by the parents and the child and the responsibilities of all the parties should be in writing to assure understanding.

#### Case Management

Case management is the process of monitoring the progress of the treatment plan. It involves the coordination of any services, such as counselling or family support activities that the plan requires. The case worker is expected to maintain close contact with the family to make

sure that the services are being used and that they are relevant to the family problems. The extent to which social workers become involved in providing direct services varies with the case. The general approach, however, is to avoid becoming involved with direct services if other providers are available.

### Placement

Placement is the process of removing a child from the home. Two types of placement can be used: emergency placement to prevent harm and non-emergency placement as part of the treatment plan. Two major administrative procedures govern placement. First is that emergency placements will be made only when the child is in imminent danger and, secondly, placement shall not occur unless attempts have been made to provide services to the family. The Indian Child Welfare Act (P.L. 95-608) requires that additional special provisions be followed in the placement of Native children. These will be discussed in a special section.

Emergency Placements. Emergency placements are situations in which immediate action must be taken to protect the child. Alaska Statutes state that "if the minor is in such condition or surroundings that his welfare requires the immediate assumption of his custody by the court, the court may order, by endorsement upon the summons, that the officer serving the summons shall at once take the minor into custody and make the temporary placement of the minor that the court directs." [A.S. 47.10.030(c)] This emergency situation may exist during the initial investigation of the reported abuse or during the treatment process.

In these cases, the child is taken into emergency custody prior to a court order assigning care. After assumption of custody, the DHSS files a petition with the court to justify the emergency assumption of custody. If the court agrees with the DHSS, it will grant temporary custody and authority for the temporary placement of the child.

Non Emergency Placements. Non emergency placements are placements in which the child is not in immediate danger but is considered a "child in need of aid" as defined in Alaska Statutes [A.S. 47.10.010]. When the child is found by the court to be a child in need of aid, the minor is brought under the jurisdiction of the court. The court hears the case and decides if sufficient facts exist to decide if the child needs DHSS aid. If not, the case is dismissed. If the court finds that the child does need aid, the recommendations of the social worker are considered in deciding the disposition of the child. The court has a variety of options in the disposition of the case. It can mandate services and order the DHSS to implement a treatment plan that is designed to protect the child and preserve the family. The court can also temporarily place the child outside of the home during treatment or, in some cases, may permanently remove the child from the parents.

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During the court process, all parties are represented. The DHSS is represented in court by the Attorney General's office. Parents are represented by their own lawyer, or by one appointed by the court. The child is represented by a guardian ad litem or attorney according to A.S. 47.10.050. The guardian ad litem is the advocate for the best interests of the child. If the court gives custody to the DHSS, the parents can petition the court to have custody returned to them at any time. In addition, the DHSS must appear before the court every two years to renew custody [A.S.47.10.080].

Indian Child Welfare Act. The Indian Child Welfare Act contains special provisions concerning the placement of Native children. The State is required to notify the tribes at the time that it takes custody of a native child. Also, the court has a higher burden of proof in demonstrating that continued custody by the parents is harmful to the child. The State must show clear and convincing evidence, supported by expert witnesses, that the child is in danger of harm if not removed. If placements outside the home are made, priorities for the placement are found in the Act.

#### EFFECTIVENESS OF TREATMENT PROGRAMS

Your research request asked that we look at the effectiveness of programs used in the treatment of child abusers and the victims of that abuse. In the course of our research, we talked with many professionals who are working with child abuse treatment programs. Most of these professionals think that the best way to look at the treatment programs is in the context of the entire range of services to abusers and victims.

The approach used in this report, then, is to look at the effectiveness of various treatment services that are offered by both State and non profit agencies within the child abuse service network. Our main emphasis will be:

- Protecting the child;
- Maintaining the family unit; and
- Prevention and early detection of abuse.

#### Protecting the Child

The State, through the Department of Health and Social Services (DHSS), has been given the legal authority to intervene in situations of suspected child abuse. Because it has this special authority, the DHSS is looked to as the lead agency in investigating situations of suspected abuse and protecting the child in those instances. Most of the

professionals that we contacted felt that the State did a good job of protecting children that are in abusive situations by concluding investigations rapidly and thoroughly.

One criticism of DHSS activity was voiced by a counselor from the Juneau School District. The main complaints were that investigations by DHSS were not complete and lacked follow through in some cases. In addition, it was felt that the DHSS personnel were reluctant to become involved in a case unless there was physical proof of abuse or eyewitness reports of abuse.

Tom Janidlo<sup>2</sup> of the Attorney General's office in Anchorage agrees that the State does well in intervening and protecting the child. However, he feels that changes in the law that would offer judges a wider range of options should be studied. Mr. Janidlo believes that in some cases in which the abuse is minor, the courts have little coercive power to impose treatment on the parents. If the parents refuse treatment, the courts must choose between taking custody of the child or subjecting the child to possible future harm. Because assuming custody has such severe effects on the child and the family, the court is unwilling to do this if the abuse is minor. Janidlo feels that other options could be made available to the social workers and the court to avoid this dilemma.

#### Maintaining the Family

The majority of professionals that we talked with believe that, whenever possible, attempts should be made to keep the family together after abuse. In many cases, the potential to bring the family back together and avoid future abuse is present. Most professionals agree, however, that the child abuse service system is not very effective in doing this.

One problem mentioned by several service providers is the case management approach used by the DHSS. Social workers using this approach coordinate and monitor services to clients rather than providing the services directly. Ms. Shaw<sup>3</sup> of the Juneau Mental Health Center thinks that at times this is a problem. She feels that by referring the case to other providers, the social worker ceases to be the focal point of the case. Situations develop in which services are being provided to

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<sup>2</sup> Mr. Tom Janidlo, Assistant Attorney General; General Civil Section, 1031 W. 4th Ave., Anchorage, 276-3550. Mr. Janidlo is also a representative of the National Committee for Child Abuse Treatment and Prevention.

<sup>3</sup> Ms. Deborah Shaw, Juneau Mental Health Center; 529 Gold, Juneau, 586-3580.

the family by a variety of sources but without a central control to coordinate the activities and assess if any progress is being made. Mr. Jandillo disagrees that the case management approach is ineffectual. He feels that it does sometimes remove the DHSS social workers from direct contact with clients, but that this allows the State to spread limited resources further by increasing case loads.

A second problem mentioned by several providers is the inability of the system to respond to potentially abusive situations. Tom Gunderson<sup>4</sup> of Alaska Childrens Services commented that it was possible for people to slip through cracks in the system. Because the State is the designated agency to receive child abuse reports, investigating these reports takes up most of their time and resources. This leaves little time to actually work with clients that may be in the early stages of an abusive situation. These clients may be referred to other agencies but there is little follow up to see if any services were ever received. Mr. Gunderson feels that in some instances this leads to serious abuse that could eventually cause the family to break up.

The major reason given by providers for this problem is the lack of State resources. As stated above, many of the resources available for child abuse are used to investigate abuse reports and protect the child. Many of the professionals that we contacted agree that State social workers do not have the time to personally stay in close contact with each client. Yvonne Elder<sup>5</sup>, of the Division of Family and Youth Services, reports that the average case load for a State social worker is above 50 cases. (The Juneau office reports their case load to be about 70 per case worker.) The standard that is recommended by social work professionals is a maximum of 25 cases per case worker at any point in time.

One proposed solution to alleviate these problems is the "home based services" approach. Many professionals we consulted were very enthusiastic about the potential of this approach to reduce the need for out-of-home placements. This approach offers comprehensive services such as counselling, day care, homemaker services, alcohol and drug rehabilitation and vocational training to families in the home. The case worker maintains direct contact with the family while these services are provided. Fewer cases are assigned to each case worker to allow this increase in the intensity of services. This close contact that the worker maintains with the family allows more freedom to the DHSS

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<sup>4</sup> Mr. Tom Gunderson, Alaska Childrens Services Inc; 1200 E. 27th Ave., Anchorage, 276-4515

<sup>5</sup> Ms. Yvonne Elder, Division of Family and Youth Services, Juneau, 465-3170.

and the courts in placement decisions that involve the well being of the child. Demonstration programs have been used in several states, and preliminary evaluations show that in some programs as many as 70 to 90 percent of families at high risk of placement are able to stay together.<sup>6</sup>

At first glance, the home based services approach would appear to be more expensive because the small case load for each social worker would result in the need for more workers. However, this does not seem to be the experience of other states that have tried this approach. Because the home based approach delivers services more intensively, cases are concluded in a shorter period of time. Also, home based services reduce the need for expensive foster and residential care. Studies based on this approach in other states conclude that the cost of providing these services to one family does not exceed the total cost of one average foster home placement and can be provided for from one-half to one-tenth the cost of residential or psychiatric placement.<sup>7</sup>

It is true, however, that the transition to a home based approach may require additional resources. This is because of the need to cover the existing and new cases as the home based services begin functioning.

The State of Alaska has begun a pilot project which provides this type of service through the Family Service Unit in Anchorage. Anita Stevens<sup>8</sup>, director of the unit, says that the prevention of out-of-home placements through intensive family based services is the primary goal of the program. The unit currently has two case workers who each have a case load of seven. A short term approach is taken to the cases which means that the case must be closed within four months or else transferred out of the Family Unit. This limits the cases that can be referred to the unit to those that do not involve chronic problems such as alcohol or drug abuse or mental health problems. Ms. Stevens estimates that approximately 50 per cent of all child abuse cases could be assigned to the Family Unit. She also says that the court has recognized the services offered by the unit as an alternative to placement.

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<sup>6</sup> Northwest Regional Child Welfare Training Center, University of Washington School of Social Work, Research Capsule No. 16, Home Based Services, December 22, 1981.

<sup>7</sup> Ibid.

<sup>8</sup> Anita Stevens, Supervisor, Division of Family and Youth Services, Family Services Section; 400 Gambell St., Anchorage, 276-1450.

Support services are another aspect of the child abuse service system that most providers feel is valuable in maintaining the family. Home-maker and day care services can effectively reduce tensions that lead to abuse. Other organizations, such as Parent Aid<sup>9</sup>, organize groups that allow parents to discuss problems with their peers as a way of understanding and reducing frustrations. These services provide an early intervention option to case workers and in many situations will help defuse potentially abusive situations or stop the abuse in its early stages. Both of these results help avoid the need for placements.

#### Prevention

Among the service providers that we talked with, there was unanimous agreement that to reduce the incidence of child abuse in the future, more emphasis has to be put on prevention and early detection. The child abuse cycle has been clearly documented over the past ten years. This cycle tells us that most abusive parents were abused as children. Professionals agree that to break the cycle, child abuse has to be prevented and not just treated after it occurs.

Several suggestions for prevention activities were made by service providers that we interviewed. Francine Eddy Jones<sup>10</sup> of the Tlingit-Haida Central Council sees a need to promote prevention in the smaller communities by training on site workers and developing backup services and support groups. Several providers suggested that parenting classes are needed, and concluded that these classes should become part of high schools' curriculums. It was also suggested that more public education was needed to train people to recognize parents in the high risk group of potential abusers.

In general, providers feel that the State should take a more aggressive role in developing and promoting prevention services. Bob Bowers<sup>11</sup> of the Center for Children and Parents thinks that the current service delivery system is characterized by uncertain funding and fragmented services. He feels that a statewide assessment of the child abuse and prevention needs should be done as the basis for the development of a State child abuse and prevention plan. This plan, he feels, would help focus the limited resources that are available for child abuse and prevention services.

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<sup>9</sup> Parent Aid; Sue Sandwell, Director, 416 5th, Juneau, 586-3785.

<sup>10</sup> Francine Eddy Jones, Tlingit-Haida Central Council; Juneau, 586-1432.

<sup>11</sup> Mr. Bob Bowers, Director, Center for Children and Parents; 800 "E" Street, Anchorage, 276-4994

## PROGRAM ALTERNATIVES FOR ALASKA

The second part of this research request presents information on model treatment and prevention programs in other states and their applicability to Alaska. In collecting data on model treatment and prevention programs, we also compiled information on federal programs and state laws which may affect the delivery of local child abuse prevention and treatment services. In this section, federal and state options are presented first, followed by examples of community-based model treatment programs.

### FEDERAL PROGRAMS

In 1974, the Child Abuse Prevention and Treatment Act was signed into law, establishing the National Center for Child Abuse and Neglect (NCCAN) in the Office of Child Development under the Department of Health and Human Services. The NCCAN serves as a resource for funds and information for states. Functions of the Center include:

- conducting studies on child abuse and neglect;
- awarding research and demonstration grants to groups seeking new methods of preventing, identifying, and treating child abuse and neglect; and
- giving grants to eligible states to help increase and improve their child protective services. States must have an approved legal and investigatory framework in place against child abuse to qualify for NCCAN grants.

Specifically, the Department of Health and Human Services (DHSS) issues two kinds of grants through the National Center on Child Abuse and Neglect: research/demonstration grants and state grants. Each year, the Office of Human Development Services in DHSS announces in the Federal Register that it is accepting competing applications for new research and demonstration grants. At that time, priority topics and proposal requirements for the upcoming year are announced. Any state, public or non-profit organization involved with child abuse prevention and treatment may apply for a grant to be used to research or demonstrate new approaches to the problem of child abuse and neglect. The competition for grants is stiff as each year only 15 to 20 research/demonstration grants are awarded nationwide through the NCCAN.

State grants are awarded in a much different manner. A state's legal and investigatory framework for child abuse must meet the requirements of the National Center on Child Abuse and Neglect before the state is eligible to receive grant monies. However, once a state qualifies for

a state grant, it automatically receives a yearly grant as long as the Governor of the particular state submits annual proof of legal eligibility. Currently, six million dollars are awarded nationwide through the NCCAN state grant program. Each state receives a percentage of the money based on its population. The money is awarded in a lump sum to be used for child abuse prevention and treatment services. The Center requests that funds be used to develop more efficient ways to prevent, treat, and ultimately alleviate child abuse. Within that framework, states may use the funds as they see fit.

We spoke with Bruce Berglund, Child Abuse and Neglect Specialist for Federal Region Ten of the NCCAN, about Alaska's eligibility for research and state grants<sup>12</sup>. He informed us that groups in Alaska may currently qualify for a research/demonstration grant if their proposal is selected by the Office of Human Development Services. However, Alaska is not eligible to receive a yearly state grant because its child abuse reporting statute does not mandate reporting emotional abuse, sometimes referred to as mental injury. According to Mr. Berglund, if Alaska included mental injury in its reporting statute and submitted an application to receive a state grant, Alaska could receive a yearly federal grant to go towards preventing and treating child abuse. Mr. Berglund stated that 47 states currently include mental injury in their child abuse reporting statutes.

#### STATE LEGISLATIVE OPTIONS

In recent years, many states have enacted laws which address child abuse and neglect. This legislation reflects an interest in long-term innovative funding approaches, and a shift in emphasis from treatment to prevention, and from state to local delivery of services. In compiling information on possible legislative actions for Alaska, we contacted representatives in several states which have recently changed their child protection laws and consulted numerous publications on recent legislative actions in the states.

#### Shift to Prevention Programs

Presently, many states are attempting to break the cyclical nature of child abuse by preventing abuse through greater community coordination of family programs, localized intervention services, and increased public education about child abuse and neglect.

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<sup>12</sup> Mr. Bruce Berglund, Child Abuse and Neglect Specialist, Administration for Children, Youth and Families, Department of Health and Social Services; Seattle, 206-442-8109.

For example, in the 1982 session, the Florida legislature passed House Bill 296 which established child abuse prevention as a state priority and mandated the development of a statewide comprehensive plan for prevention through local coordination of services. The state plan will be developed by local task forces made up of private and public organizations. On the local level, the mandated planning process calls for a survey of available services, placement of existing services on a continuum from prevention to treatment, and isolation of gaps in the service delivery system. The legislature also committed \$1.1 million for a six-month period to fill the gaps in the existing services continuum.

State and public care providers in Alaska agree that there are long-term benefits in shifting emphasis from treatment to prevention. However, for this shift to occur, funds must be secured for prevention programs. A formal recognition by the Alaska legislature of the value and necessity of prevention programs could help facilitate the shift in emphasis, as well as provide a stable source of revenue for prevention programs. A state plan coordinating prevention programs in Alaska could also alleviate duplication of services while ensuring statewide provision of care.

#### Shift to Community Based Programs

In an attempt to increase the capacities of community based programs, California passed House Bill 1733 in 1982. The bill "authorized a ten million dollar general fund appropriation to encourage public and private child abuse prevention and intervention programs aimed at high-risk children and families in which no reportable offenses have yet occurred."<sup>13</sup> The law provides each county with a \$50,000 base appropriation. The state also makes training and technical assistance available on a local level through the Office of Child Abuse Prevention and the California Consortium of Child Abuse Councils.

#### Alternative Funding Mechanisms

A key factor in the success of child abuse prevention and treatment programs is the availability of long-term funding; consequently, some states have implemented alternative funding mechanisms such as children's trust fund legislation. Common goals of children's trust funds are to relieve some of the pressure on state social services' budgets, foster the growth of community based programs, and emphasize the prevention of child abuse and neglect.

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<sup>13</sup> Michele R. Magri, "Breaking the Cycle of Child Abuse," State Legislatures, March 1983, pp. 14-17.

In general, the fund is generated through a surcharge on marriage licenses, birth certificates, or divorce decrees, or by specially designated income tax refunds. The revenues are earmarked for community-based child abuse prevention programs, and are often administered by the state department of social services. Advisory boards are established to determine priorities for the distribution of funds.

To date, seven states (California, Iowa, Virginia, West Virginia, Wisconsin, Kansas, and Rhode Island) have established children's trust funds by placing surcharges on marriage licenses, divorce decrees, or birth certificates. Five other states (Alabama, Illinois, Louisiana, Michigan, and Missouri) generate children's trust funds by permitting tax payers to designate up to two dollars of their state income tax refunds for the children's trust fund. In addition, these 12 states also allow state appropriations and private donations to be added to the funds.

In Michigan, where the trust fund operates through a tax refund check off, part of the receipts are used to directly fund child abuse prevention programs. The balance is then invested and earnings are credited to the children's trust fund. When the fund reaches \$20 million, the refund check-off will be halted and programs will be financed by interest earned on the account. While this method of funding provides an alternative to direct state appropriations, it also serves as a method of increasing public awareness of child abuse and its possible solutions. Sharon Shay, contact person for the Michigan Children's Trust Fund, reports that \$800,000 was collected in 1982-83, the program's first year of existence. Revenues are projected to increase as public awareness of the fund increases.

Kansas, on the other hand, places a seven dollar surcharge on marriage licenses to fund its family and children trust fund. The advisory board is also considering an additional surcharge on divorce decrees or birth certificates. January Scott, Executive Director of the Kansas Committee for Prevention of Child Abuse, provided copies of the statutes which established the Kansas Family and Children Trust Fund, information on the advisory committee composition and functions, programs which have received trust fund grants, and operation guidelines for the fund.<sup>14</sup> We have attached that information at the end of this memorandum (see attachment A). Ms. Scott suggested that states set up a trust fund which includes both children and families, since child abuse and family problems are so closely related.

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<sup>14</sup> January Scott, Executive Director, Kansas Committee for Prevention of Child Abuse; Topeka, Kansas, 913-354-7738.

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The Alaska State Constitution prohibits dedicating proceeds of a State tax or license for special purposes, with the exception of the Permanent Fund. However, Alaska could possibly implement a children's trust fund by appropriating money from the general fund for child abuse programs. In fact, Mr. Thomas Janidlo, Assistant Attorney General and member of the National Committee for the Prevention of Child Abuse (NCPCA) has already written a proposal for trust fund legislation in Alaska. The proposal includes several funding options, among them a one-time, large appropriation which would generate interest to fund programs on a rotating basis. Through the help of volunteers and the community, programs are expected to become self-sufficient within four years. The proposal was submitted to Governor Sheffield last session, but no action resulted. Consequently, the Alaska chapter of the NCPCA is looking for a legislative sponsor. If you would like further information, Mr. Janidlo can be reached at 276-3550 in Anchorage.

#### Child Protection Teams

Another legislative option for Alaska would be to incorporate child protection teams into its current reporting statutes. In Alaska, social workers usually investigate a case of reported abuse, and are then required to determine whether or not the child was abused, the chances for successful treatment of the child and for the development of a treatment plan based on the child's needs and available community services.

Contending that this procedure may place an unreasonable demand on the social worker, eleven states changed their laws and implemented child protection teams made up of professionals in medicine, psychology, social work, law and education. The teams are developed to oversee and coordinate all child abuse cases within a particular state or geographic region, and are either locally or state administered. Besides developing and implementing individual treatment plans, teams are responsible for surveying services offered in a particular area, identifying the gaps which exist in the delivery of services and recommending how to fill them. Child protection teams are also called on to serve as an education bureau to increase public awareness of the problem and possible solutions.

In Pennsylvania, for example, each county is required to develop a child protection team to coordinate and oversee local child abuse prevention and treatment services. The handbook used in Pennsylvania as a guide for developing multidisciplinary teams (child protection teams) is enclosed (see attachment B). Other states which have enacted child protection teams legislation are California, Colorado, Indiana, Massachusetts, Michigan, Mississippi, South Carolina, Tennessee, Utah and Virginia.

### Mandatory Reporting Laws

Finally, with regards to legislative action, Alaska could make some changes to its mandatory reporting law (AS 47.17.010-070). Possible changes include:

- the inclusion of emotional abuse in mandatory reporting provisions as was discussed in the federal programs section of this memorandum;
- provision of a penalty for failure to make a mandatory report;
- authorization of the use of color photos and/or x-rays as evidence; and
- provision for the institution of child protection teams and increased public education.

For a review of child protection laws in other states, please see attachment C. Most of the attached chart describes the child abuse reporting laws of each state.

### MODEL TREATMENT AND PREVENTION PROGRAMS

With the necessary legal and monetary support in place, communities may implement model child abuse prevention and treatment programs. Ideas for model programs abound on the federal, state, and local levels. Programs such as children's trust funds and the National Center on Child Abuse and Neglect research grants have encouraged the development of innovative approaches to the prevention and treatment of child abuse. Brief descriptions of some model programs are provided below.

#### Support Groups

The support group approach to child abuse treatment is similar to the Alcoholics Anonymous treatment concept. In the area of child abuse, self-help groups are geared towards specific populations such as abusive parents or adolescent victims of abuse. One program, FACES, Formerly Abused Children Emerging in Society, is aimed at young adults who were abused as children. FACES, which meets weekly, serves as a nurturing, surrogate family for formerly abused young adults and includes the services of two volunteer co-facilitators. The group focuses on helping members deal with current personal issues such as lack of trust, feelings of isolation, and low self esteem.

Members are also assisted in understanding the present in relation to the past. A major goal of FACES is to break the cyclical nature of child abuse. FACES is sponsored by the Manchester Memorial Hospital in Manchester, Connecticut. Groups meet in a living room setting at Manchester Community College. The weekly meetings are free to participants.

Another self-help group, Parents Anonymous, is designed to help abusive parents help themselves. As such, the program is only effective for those parents who admit they have a problem. The group, aimed at physical and verbal abusers, usually meets on a weekly basis. Parents Anonymous, which has chapters nationwide, is also active in child abuse public education. Federal and state monies, as well as private donations fund the program. At one time, Alaska had a Parents Anonymous group in Anchorage, but that group dissolved due to the lack of a sponsor to host and coordinate meetings.

#### Media

An example of a pioneer media program is "The Bubbylonian Encounter: A Drama to Prevent Sexual Child Abuse", written by Gene MaKay, artistic director of the Theater for Young America, Inc. The play which is presented in two mediums, a live production by the Theater for Young America, Inc. or a videotape, is designed especially for elementary school children, a group which constitutes one-half of all sexual assault victims. The thirty-minute play is about Bub from the planet Bubbylonia whose inhabitants are deprived of the sense of touch. Bub comes to earth and learns about the joys and perils of touching, and the differences between positive touching and forced sexual touching. In scenes where Bub encounters forced sexual touching, the message is that Bub should tell someone and suggestions are offered for who Bub might tell. In the play, Bub serves as a role model for children in her lack of knowledge about touch, her eagerness to learn, and her assertive manner in dealing with forced sexual touching.

The Bubbylonian Encounter was tested on 82 children in grades three through six after viewing the play to measure what they learned. The results indicate that 97 percent of the children were able to distinguish between forced sexual touching and other types of touching, 82 percent knew how to respond appropriately if sexually assaulted, and 87 percent understood that family members could abuse them.

The Division of Family and Youth Services recognizes the potential of media for educating the public, especially children, about child abuse, and is considering some films for possible use.

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### Coordinated Community Services

In line with the recent move to coordinate community prevention efforts, EPIC, Effective Parenting Information for Children, attempts to unify three major institutions which affect children's lives: home, school, and community. EPIC, a two-year pilot program, is a primary prevention approach which aims at training children to become responsible parents and persons.

In the school, EPIC provides a sequential parenting skills curriculum in grades kindergarten through twelve. The home component involves parent workshops led by trained volunteers which cover topics such as parenting styles, nurturing, communication, coping, and behavior management. Workshops are held at schools, churches, hospitals, and community centers, and child care is provided. To involve the community, the EPIC Board of Directors is composed of representatives from local schools, universities, businesses, churches, human service organizations, and governments.

EPIC is currently based in Buffalo, New York; however, its ultimate goal is to create a home/school/community model that can be replicated in any community in the country. An EPIC package, including a procedures manual and tabulated results of its first year of operation, is now available. We are requesting the EPIC information packet, and will forward a copy of the material to you upon receipt.

### Other Model Programs

While discussing treatment alternatives with us, Ann Spohnholz of the Parent Training Center mentioned a program which involves training abusive parents to work as child care providers in day care centers.<sup>15</sup> Under initial close supervision, abusive parents learn how to nurture their own children, while also caring for other children and learning a job skill. In some cases, parents are then employed by the centers to serve as child care providers. Programs designed to provide emergency child care services to parents in need of time out have also been implemented in some communities. These programs operate under the premise that child abuse is more likely to occur in periods of heightened parental stress, and are aimed at high risk parents. Another new approach, home-based services, was described earlier in this memorandum, and is currently the subject of a demonstration project in Anchorage.

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<sup>15</sup> Ms. Ann Spohnholz, Parent Training Center; Anchorage, 272-1722.

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## DELIVERY OF SERVICES TO DISTRICT II

As you are aware, the Division of Family and Youth Services is soliciting bids for a comprehensive study of services in the Southeast for child abuse and related family problems. Through this study, the division hopes to identify key people in each community who are in a position to identify cases of abuse, provide training to these key people in child abuse identification and intervention, and develop community specific procedures for reporting. The division's ultimate goal is to ensure regionwide provision of care without duplication of services.

As it seems that this study will provide a comprehensive survey of community child abuse services currently available in the Southeast, we have not attempted to duplicate that effort at this time. Consequently, our focus in this section is the State's delivery of child and family services in the District 2 area. We would be happy to review and comment on the division's study when it is completed.

### SERVICES PROVIDED BY DIVISION OF FAMILY AND YOUTH SERVICES

Services provided by the Division of Family and Youth Services are divided into two groups: social services and youth services. Social services are delivered to children who have been abused or neglected. Recipients of social services are designated as "children in need of aid," and are assigned social workers. Youth services, on the other hand, are provided to delinquent youth. Recipients of youth services are adjudicated as delinquent, and are assigned probation officers.

#### Social Services

The social services field office for each community mainly provides child protective services. These include initial investigations, court work, and case management. Under case management, social workers may utilize foster home placement, day care services, homemaker services, or counseling referrals for alcohol and drug related problems, marital and other problems. The delivery of social services is more thoroughly described in the first section of this memorandum.

#### Youth Services

Youth services revolve around juvenile probation. Probation officers are involved with preliminary intakes of referred juveniles, assessment of the problem, and determination of whether or not to temporarily place the youth in detention, proceed with probation, or defer the complaint. If the complaint is deferred, the probation officer will contact the appropriate agency such as Family and Youth Services, or probation, the probation officer conducts an intake interview. Juvenile delinquents may then be assigned informal probation for a six-month

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period, or may be sent before the court for more serious charges. If the youth is found guilty, the probation officer completes a predisposition report describing the youth's background and recommending a course of action, whether it be formal probation, parental custody, community-based treatment, or institutional confinement. If the State is given custody of the youth, the probation officer is called upon to act as a surrogate parent for the delinquent.

Explanation of charts

The following charts outline the provision of services by the Division of Family and Youth Services to the District 2 area. One chart covers the delivery of social services, and the other youth services. Each chart provides the locations of the regional office and field offices which serve District 2 communities.

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We hope the information provided in this memorandum is useful. Feel free to contact us if we may be of further assistance.

Attachments

HB/JL

DIVISION OF FAMILY AND YOUTH SERVICES (DHSS)  
Delivery of Youth Services to Communities in Election District 2

Regional Manager's Location

Juneau

Office Locations:

Juneau

Communities Served:

Juneau  
Gustavus  
Haines  
Hoonah  
Klukwan  
Skagway  
Wrangell  
Yakutat

Sitka

Sitka  
Angoon

Petersburg

Petersburg  
Kake

Anchorage

Cordova

Ketchikan

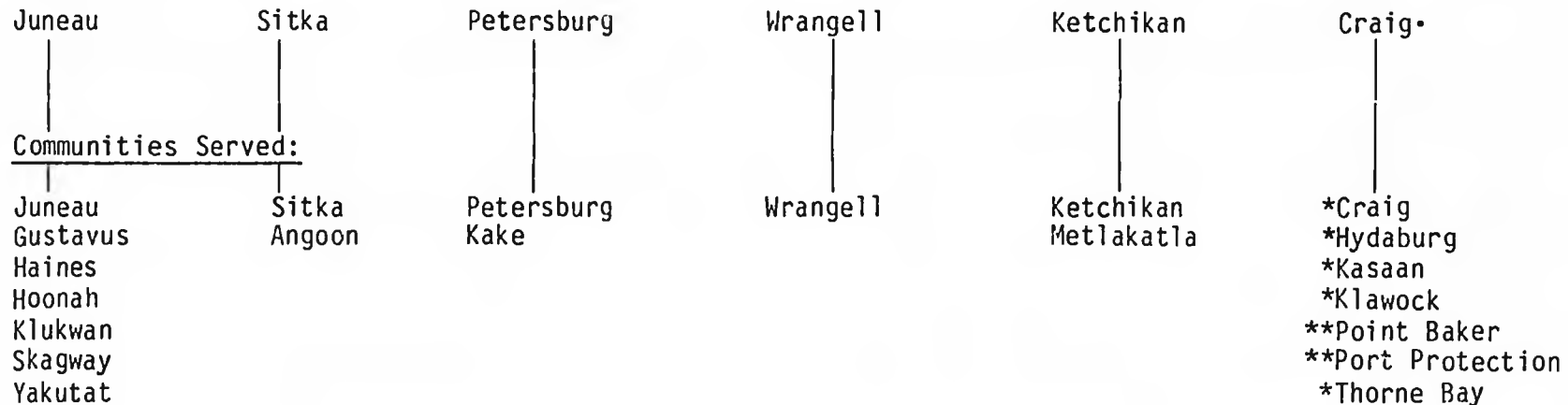
Ketchikan  
Metlakatla  
Craig  
Hydaburg  
Kasaan  
Klawock  
Point Baker  
Port Protection  
Thorne Bay

DIVISION OF FAMILY AND YOUTH SERVICES (DHSS)  
Delivery of Social Services to Communities in Election District 2

Regional Manager's Location

Ketchikan

Office Locations:



\* In cases requiring superior court actions, these communities would receive such services out of Ketchikan.

\*\* Point Baker and Port Protection may also receive social services out of the Sitka and Wrangell offices.

• The Division of Family and Youth Services Social Worker III position in Craig is presently vacant. According to Southeast Regional Office representatives, the position should be filled by November 11, 1983.



**KANSAS COMMITTEE FOR  
PREVENTION OF CHILD ABUSE**

214 West 6th, Suite 301  
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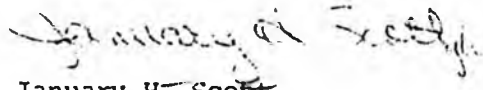
Heidi Borson  
c/o House Research Agency  
Pouch Y  
Juneau, AK 99881

Dear Ms. Borson:

Enclosed is the information you requested on the Kansas Family & Children's Trust Fund legislation.

I hope this information will be helpful to you. If you should have further questions, please do not hesitate to contact our office.

Sincerely,

  
January H. Scott  
Executive Director

JHS:jh  
Enc.

STATUTES ESTABLISHING THE KANSAS FAMILY AND CHILDREN TRUST FUND

**23-110.** Index of records; certified copies; fees; disposition of moneys; family and children trust fund; vital statistics fee fund. The secretary of health and environment shall index all records thus received and, when applied to, shall issue a certified copy of the same which shall be prima facie evidence in all courts and places of the facts stated therein. For each certified copy a fee shall be paid to the secretary in an amount prescribed in accordance with K.S.A. 65-2418 and amendments thereto and to be disposed of in the manner provided therein. The secretary shall keep an accurate account of all fees received from the judges of the district court and all other sources. Such secretary shall remit all moneys received by or for such secretary from the marriage license fee provided for by K.S.A. 1980 Supp. 23-108 and amendment thereto to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent (20%) of each such deposit shall be credited to the state general fund and of the balance of each such deposit, seventy percent (70%) shall be credited to the family and children trust fund, and thirty percent (30%) shall be credited to the vital statistics fee fund. All expenditures from the family and children trust fund shall be made in accordance with K.S.A. 1980 Supp. 75-5328, and all expenditures from the vital statistics fee fund shall be made in accordance with K.S.A. 65-2418.

**75-5328.** Family and children trust fund; grants, gifts and bequests; expenditures for certain purposes; "educational programs" defined; director of services to children and youth to exercise powers and duties under section. (a) There is hereby created in the state treasury the family and children trust fund. The secretary of social and rehabilitation services may apply for, receive and accept grants, gifts and bequests from any source, governmental or private, for the purposes for which money may be expended from the family and children trust fund under subsection (b), and the secretary shall remit all moneys so received to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the family and children trust fund.

(b) Moneys in the family and children trust fund shall be used for the following purposes: (1) Matching federal moneys to purchase services relating to community-based programs for the prevention of problems of families and children; (2) providing start-up or expansion grants for community-based prevention projects or educational programs for the problems of families and children, primarily but not limited to, child abuse and neglect and family abuse; and (3) study and evaluate community-based prevention projects and educational programs for the problems of families and children. For the purpose of this subsection (b), "educational programs" shall include instructional and demonstration programs whose main purpose is to disseminate information and techniques or to provide services for the prevention of problems of families and children. No moneys in the family and children trust fund shall be used for the purpose of providing services for the voluntary termination of pregnancy.

(c) The advisory committee to the division of services to children and youth established by K.S.A. 75-5325, or its successor, shall advise the secretary and the director of services to children and youth in detail on the expenditures of moneys in the family and children trust fund.

(d) All expenditures from the family and children trust fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of social and rehabilitation services or by a person or persons designated by the secretary.

(e) The secretary shall designate the director of services to children and youth to exercise the powers and perform the duties granted to and imposed upon the secretary under this section.

## CHILDREN AND YOUTH ADVISORY COMMITTEE

The Secretary of Health and Environment or designee  
The Secretary of Social & Rehabilitation Services or designee  
The Secretary of Human Resources or designee  
The Commissioner of Education or designee  
The Chief Justice of the Supreme Court or designee  
Two State Senators appointed by the President of the Senate  
Two State Representatives appointed by the Speaker of the House  
Five Members appointed by the Governor

Has broad general powers of oversight with regard to children's programs. Is the final awarding authority for the Family and Children Trust Fund Grants.

## FAMILY AND CHILDREN TRUST FUND SUBCOMMITTEE

Four Members of the Children and Youth Advisory Group

One Member Representing Kansas Action for Children  
One Member Representing Kansas Committee for the Prevention of Child Abuse  
One Member Representing Kansas Association of Domestic Violence Programs  
One Member Representing Mental Health Association in Kansas  
One Member Representing Kansas Congress of Parents and Teachers

Has primary responsibility for developing guidelines, reviewing grant applications, and monitoring the progress of projects.

August, 1982

FAMILY AND CHILDREN TRUST FUND GRANT AWARDS

- GRANTEE: Regional Crisis Center  
PROJECT TITLE: Children in Crisis  
FUNDING: \$11,940 (2nd yr)  
DESCRIPTION: A support program geared to identifying and alleviating stress as it impacts upon children in crisis. A comprehensive approach of assessment, treatment and/or referral will be conducted under the direction of a child specialist. Assistance via parental skill building and counseling for mothers/parents will be facilitated by a family therapist. Training for staff and volunteers in child development, assessment and case management will be provided on a weekly basis.
- GRANTEE: Parents Time Out  
PROJECT TITLE: Parents Time Out  
FUNDING: \$12,000 (2nd yr)  
DESCRIPTION: This program is designed to provide parent educational support to families. The focus is on positive parenting without overt identification of high risk families. The service is provided based upon ability to pay with low-or-no pay slots reserved for referred or identified high stress families.
- Services include: 1) Respite child care with age appropriate programming focused on development of positive self-image; 2) parent education, including intervention with child care staff about each child and his/her development, a resource library and room, weekly opportunity for support, group discussion and periodic parenting program; and 3) support for identified support and interaction/counseling by the project coordinator around parent/child issues.
- GRANTEE: Domestic Violence Assoc. of Central Kansas  
PROJECT TITLE: Implementation of Educational Services to USD #305 Public Schools on Prevention of Sexual Abuse to Children and Domestic Violence  
FUNDING: \$7,540  
DESCRIPTION: The implementation of educational services to the USD #305 Public School system. Two components of this project are the prevention of sexual abuse of children and understanding of the dynamics of domestic violence within the family unit from a child's perspective.
- GRANTEE: Reno County Health Department  
PROJECT TITLE: Parental Support Project  
FUNDING: \$14,986  
DESCRIPTION: Establish a Basic Parenting Educational Program consisting of 12 two hour sessions; child growth and development, parenting skills and techniques and resources available to assist parents. The course would cover needs of children from infancy to 18 years, and entered at any age level needed by parents.
- GRANTEE: USD #259, Wichita Public Schools, Curriculum Services Division  
PROJECT TITLE: Pilot Project: Program for Implementing a Prevention Program on Child Sexual Assault in grades 4-6.  
FUNDING: \$4,905  
DESCRIPTION: This educational program is focused on 1) providing teachers with an understanding of child sexual assault and 2) making children aware

of choices they have for personal safety. Teachers will be trained as well as support personnel through workshops, enabling them to pass on information through the classroom and other contacts with students and parents.

GRANTEE: Four County Mental Health Center  
PROJECT TITLE: Sexual Abuse Diversion Program Seminar, Live Productions of Bubbylonian Encounter  
FUNDING: \$1,450  
DESCRIPTION: A community professional training seminar on the sexual abuse diversion program, an advanced training seminar for community professionals; Live performance of the play "Bubbylonian Encounter" which is for children about the sense of touch and teaches them a definition of forced sexual contact and what to do if it should happen.

GRANTEE: St. Mary College  
PROJECT TITLE: Goal Setting - A Realistic Structure for Professionals and Parents in Working with High Risk Children  
FUNDING: \$15,000  
DESCRIPTION: To provide both professionals and parents with the information and structure needed to set realistic goals and to achieve them as they work with high risk children ages 0-12. It offers a goal-setting conference for professionals in the county and an individualized home parenting program for parents along with developmental services for preschool-age children. With some direction and organization as well as good communications, parents and professionals can become actively involved in prevention of abuse or neglect of children who are borderline candidates for such a condition.

GRANTEE: Johnson County Mental Health Center  
PROJECT TITLE: Self-Care Education Project  
FUNDING: \$2,500  
DESCRIPTION: To publish an instructor's manual for "I'm in Charge", which would be disseminated to Johnson County Coalition for the Prevention of Child Abuse. The number one neglect report in Johnson County is for children left unattended.

GRANTEE: Family & Child Educational Services  
PROJECT TITLE: Family & Child Educational Services  
FUNDING: \$3,608 (2nd yr)  
DESCRIPTION: To prevent child abuse by education through a home visitor program, which is a "grandmother role" volunteer; telephone counseling for crisis and community information on a 24 hour basis; parenting classes; provide education for parenthood in local school system; film service to parents pertaining to parent education; volunteers showing family service films on infant care in local hospital; FOOTSTEPS series for use in home economics and family living classes.

GRANTEE: American Assoc. of University Women  
PROJECT TITLE: Atchison Health Start Program  
FUNDING: \$7,951.20 (2nd yr)  
DESCRIPTION: This program would provide support and assistance for parents with early infant care through a trained volunteer home visitor. This will minimize some of the frustration and stress for new parents, thus decreasing the possibility of child abuse and neglect.

# The Children's Trust Fund



## Children's Trust Fund

In the spring of 1980 Kansas became the first state to pass legislation creating a Family and Children's Trust Fund that would use revenues from surcharges placed on marriage licenses for prevention programs for children.

We reported on the new program in our January-February 1981 issue and carried an update, "Kansas and The Children's Trust Fund" by Jean Glenn in the May-June 1982 issue. Now we thought readers would like to know that six other states—Washington, Iowa, Virginia, Michigan, Rhode Island and California—have also established public funds to support preventive services. Thomas L. Birch describes the growth and operation of the Trust Fund concept in the following article, condensed and reprinted with permission from *Caring* (Vol. 8, No. 4), published by the National Committee for Prevention of Child Abuse.

**A**n approach to preventing child abuse that is catching on rapidly is the Children's Trust Fund. . . .

*Thomas L. Birch is coordinator of the National Child Abuse Coalition, Washington, D.C.*

Revenues to build the Children's Trust Funds are generated by surcharges on marriage licenses, birth certificates, or divorce decrees, or by specially designated refunds of the state income tax. Grants from the fund go to preventive programs for child and family abuse, and dis-

tribution of the grants is supervised by an advisory group of individuals with a demonstrated interest in preventing child abuse.

Prevention is the central focus of the Children's Trust Fund concept. The idea was first conceived by Ray E. Helfer, M.D., a pediatrician widely recognized for his pioneer work in the field of child abuse. Helfer is a former vice president of the National Committee for Prevention of Child Abuse (NCPCA).

NCPCA state chapters have been in the forefront of the Children's Trust Fund movement. Through the efforts of NCPCA volunteers, Kansas, in April 1980, became the first state to create this funding mechanism. The Kansas statute resulted from two pieces of legislation. One established a Family and Children's Trust Fund by placing a \$7 surcharge on each marriage license issued. The second bill created a 14-member Children and Youth Advisory Committee of nine state agency members and five concerned citizens appointed by the governor.

Approximately \$130,000 is generated each year for the Kansas Family and Children's Trust Fund. The fund is administered by the Division of Services to Children and Youth under the guidance of the advisory committee. The members of the committee, acting as children's advocates, also advise state agencies serving children and recommend statutory policy to the governor and the legislature.

Grants from the Kansas fund are limited to \$15,000 and go to community-based preventive projects or educational programs. Examples of projects that have received help are

*(Continued on inside back cover)*

crime rates, friendliness between neighbors, the age of members within the community, the number of children and neighborhood and family support systems. Developing measures to assess such characteristics from community to community is crucial to accurate research. We have made progress to the point where we can ask, "What characteristics in the latchkey child's environment affect that child's personal and social development?"

"U.S. Department of Labor, Women's Bureau, "Working Mothers, Fastest Segment of the Labor Force," Release No. 82-313, Washington, D.C., September 3, 1982.

"U.S. Department of Commerce, Bureau of the Census, *Daytime Care of Children*, Current Population Reports, Series P-20, No. 298, Washington, D.C., U.S. Govern-

ment Printing Office, October 1976.

"U.S. Department of Labor, Women's Bureau, *Employers and Child Care: Establishing Services Through the Workplace*, Pamphlet No. 23, Washington, D.C., August 1982.

"Initial Results From the 1981 Survey of Child Care Arrangements," Labour Force Survey Research Paper No. 31, Statistics Canada, September 1982.

"A. C. Emlen, *When Parents Are at Work: A Three-Company Survey of How Employed Parents Arrange Child Care*, Greater Washington Research Center's Task Force on Local Government Response to Fiscal Pressure, Washington, D.C., December 1982.

"U. Bronfenbrenner, "The Origins of Alienation," in U. Bronfenbrenner and M. Mahoney (Eds.), *Influence on Human Development*, Hinsdale, Ill., Dryden Press, 1975.

"J. Garbarino, "Latchkey Children: Getting the Short End of the Stick?," *Vital Issues*, Center for Information on America, Washington, Connecticut, November 1980, Vol. 30, No. 3.

"M. B. Woods, "The Unsupervised Child

of the Working Mother," *Developmental Psychology*, 1972, 6 [a].

"D. Gold and D. Andres, "Comparisons of Adolescent Children With Employed and Nonemployed Mothers," *Merrill-Palmer Quarterly*, 1978, 24 [b].

"D. Gold and D. Andres, "Developmental Comparisons Between 10-year-old Children With Employed and Nonemployed Mothers," *Child Development*, 1978, 49.

"T. J. Long and L. Long, *Latchkey Children: The Child's View of Self-Care*, unpublished manuscript, Loyola College, 1982.

"L. L. Cowen, et al., "A Quick Screening Device for Early Identification of School Maladaptation," *American Journal of Community Psychology*, 1973, 1.

"S. Harter, "A New Self-report Scale of Intrinsic Versus Extrinsic Orientation in the Classroom: Motivational and Informational Components," *Developmental Psychology*, 1981, 17.

"Gold and Andres, [a] and [b], op. cit.

"Long and Long, op. cit.

"G. Elder, *Children of the Great Depression*, University of Chicago Press 1974.

## Children's Trust Fund (Continued from page 25)



a play program for children who have been subjected to stress by violence at home; a training course for volunteers to act as advisers to new parents; a coalition for developing primary preventive services; and a self-care course for "latchkey children" in elementary school.

The Children's Trust Fund approach is flexible. Each of the six other states that have established funds—all with legislation enacted in 1982—adapted the concept to suit its own constituency. For example, while Virginia, Washington, Rhode

Island and Iowa, like Kansas, have increased the fees for marriage licenses, California's law puts a surcharge on birth certificates.

The state of Michigan has taken a different tack. Its legislature enables taxpayers to designate up to \$2 of their state income tax refund to the Children's Trust Fund. Part of each year's receipts go to fund programs; the rest is invested, and earnings are credited to the trust fund. The refund checkoff will be halted when the fund reaches \$20 million. After that, programs will be financed from interest on the money in the account.

In states like Virginia and Iowa policy prohibits establishing a specially designated fund of state money. In those states the extra fees from marriage licenses go into general revenues and then are passed along to support prevention programs.

The composition of the advisory group varies, too, from state to state. The Michigan statute mandates a board of 15 members; Iowa has an advisory council of five. Some states must include specified

heads of governmental agencies on their boards; others draw all their members from the public. Governors make appointments in some states; elsewhere legislative leaders also have appointees.

Typically, the Children's Trust Fund program is administered through the state department of social services. Michigan's Child Abuse and Neglect Prevention Board, however, is an autonomous agency within the Department of Management and Budget, and the Washington Council on Child Abuse and Neglect is an entity of the governor's office. . .

The flexibility of the Children's Trust Fund concept is one of its strengths. . . The approach appeals to several concerns. It takes pressure off the regular state social services budget to fund often neglected protective services. It fosters creation of community-based programs and shifts some of the responsibility for planning to the community level. Most important, the Children's Trust Fund focuses attention on services that can prevent child abuse and neglect. ■

GRANTEE: Catholic Social Services  
PROJECT TITLE: ASSIST project  
FUNDING: \$11,999.20 (2nd yr)  
DESCRIPTION: Single Parents and Family Support Program focused on information, socialization, and recreation, operating on the philosophy that family functioning may be enhanced by providing single parents the opportunity to learn, share, and have some of their own needs met, thereby child abuse or neglect may be reduced or prevented.

The Grantparent group is based on the belief that general family functioning in households incorporating single parents and their children can be enhanced by addressing concerns of grandparents and acknowledging their importance in the parenting process.

These "high risk" families are single, poor, isolated, immature, and have unrealistic expectations of children, personal difficulties and usually reside with own family.

GRANTEE: Johnson County Coalition for Prevention of Child Abuse  
PROJECT TITLE: Self-Care Education Project  
FUNDING: \$4,800 (2nd yr)  
DESCRIPTION: This will be used to develop a manual and provide training (not printing costs or printing plastic cards) "I'm in Charge" for latchkey children and their parents.

GRANTEE: Kansas Research Institute  
PROJECT TITLE: Family Life Education: On the Job  
FUNDING: \$13,900  
DESCRIPTION: This project was to establish and develop a primary child abuse prevention program through a family life education curriculum applicable to industrial and other business settings. Objectives are to improve family functions, reductions in number of children separated from their families, increase job satisfaction and lower overall public costs. Provide a course in family functioning skills through training workshops for company employees during working hours.

GRANTEE: Ourselves and our Families  
PROJECT TITLE: Ourselves and our Families  
FUNDING: \$15,000  
DESCRIPTION: To establish community awareness and prevention program for the prevention of child abuse and neglect through on-going training program for parents to establish effective disciplining skills and education in the role of effective parenting. To establish trained elementary teachers in the program on self-esteem, peer pressure, communication skills, decision-making and problem solving techniques. A primary prevention program for parents in pre-natal care and post-natal care in the home through home visitors.

GRANTEE: Kansas Committee for Prevention of Child Abuse  
PROJECT TITLE: Prevention Assistance  
FUNDING: \$5,000  
DESCRIPTION: This project will provide assistance to the Family & Children Trust Fund Subcommittee in assessing the progress of five trust fund projects and planning for improvement in the second year of the projects of the Trust Fund Subcommittee.

## FAMILY AND CHILDREN TRUST FUND GUIDELINES

The Family and Children Trust Fund was authorized in the 1980 Kansas legislative session by Senate Bill 609. The Trust Fund will provide funding for community based projects for the prevention of child abuse/neglect or spouse abuse. The program is administered by the Kansas State Department of Social and Rehabilitation Services. The Children and Youth Advisory Committee is responsible for review and approval of proposals.

### I. Eligibility of Applicants

To be eligible to receive Trust Fund grants, applicants must be organizations, agencies, community groups, governmental units or sub-units, public schools, colleges, or universities.

### II. Proposals Eligible for Funding Consideration

All proposals will be reviewed on the following criteria. If the criteria are met, the proposals are eligible for further review for funding consideration.

- A. Projects which focus on the prevention of child abuse/neglect or spouse abuse will be considered for funding. Prevention projects are those which are directed toward decreasing occurrences of abuse and neglect through community education, parent education, and services to families and children. Projects targeting either high-risk groups or the population at large are eligible.
- B. Projects dealing primarily with alcohol and drug abuse, juvenile delinquency, the developmentally disabled, or providing funds for day care centers will not be considered for funding as there are other grant funds specifically targeted for these services.
- C. The service to be provided is not a duplication of existing services available in the community.
- D. The project develops a new service or substantially expands on existing service. Proposals to simply maintain existing services will not be considered.

### III. Proposal Review Criteria

- A. The following criteria will be used in reviewing proposals that are found eligible for funding consideration.
  - 1. Does this project focus on prevention as opposed to treatment?
  - 2. Does the service to be provided offer a reasonable approach to the prevention of child abuse/neglect or spouse abuse in general, and for the target community or group in particular?
  - 3. Innovativeness of the project.
  - 4. Demonstration of community need for the particular type of service.
  - 5. Soundness of project start-up plans. Soundness of plan for on-going provision and administration of the services.
  - 6. Ability of agency to administer the program and deliver the service. Adequacy of staffing pattern and personnel qualifications.
  - 7. Degree to which the proposal reflects cooperation with and support from community, professional and voluntary organizations and individuals.
  - 8. Reasonableness of the budget.
  - 9. Adequacy of plan for assumption of cost by non-Trust Fund sources.

THE FAMILY AND CHILDREN'S TRUST FUND

The Kansas Committee learned a great deal from the process involved in implementing the Family and Children's Trust Fund. The following key steps are necessary in attempting to pass an original piece of legislation.

1) BEGIN EARLY AND ORGANIZE

We formed an Advocacy Committee six months prior to the opening of the legislative session. This committee was composed of representatives from the Governor's office, state agencies, children's advocacy organizations, legislators wives, and interested citizens. The First Lady of Kansas, Ramona Carlin, acted as co-chairperson of this committee. The adoption of the Trust Fund by the Governor in his legislative program was crucial in its passage.

2) DRAFT LEGISLATION AND DISTRIBUTE FOR REACTIONS

Our first draft was disseminated five months prior to the session to legislators and other interested individuals. Their reactions were extremely important in defining problem areas and possible solutions.

3) ALWAYS BE AWARE OF YOUR OPPOSITION THROUGHOUT THE PROCESS

It came to our attention that women's groups were interested in enacting similar legislation for shelters, which had been precendented in other states. We met with individuals from these groups, and broadened our concept to prevention of family abuse and family problems.

4) CHOOSE CAREFULLY THE LEGISLATORS WHO WILL ACT AS SPONSORS OF THE LEGISLATION

A DIVERSE GROUP IS IMPORTANT. Senator Frank Smith was very instrumental in this process, due to his committment to the bill and his awareness of the politica! climate in the Kansas Legislature.

5) DEVELOP A BROAD-BASED, STATEWIDE CONSTITUENCY NETWORK

We had the endorsement of 38 organizations and agencies. Within many of these organizations, there was an available statewide network. This component is of vital

importance from the beginning to the end of the process. Legislators vote according to their constituency's concerns. We prepared guidelines for support letters to enable individuals to feel more comfortable in their letter writing and phone calls.

6) BE AWARE OF COMMON CONCERNS EXPRESSED BY LEGISLATORS

One concern we heard continuously was regarding the means of funding. We prepared a statement explaining our rationale for using the marriage license fee, and distributed this to every legislator. Another concern was regarding what type of programs this money would be funding. Again, we prepared a concise outline or fact sheet explaining the various programs, and distributed it to every legislator.

7) LOBBY, LOBBY, LOBBY

We visited almost every legislator to explain the bill, answer questions, and confirm votes. If we received an indication of a possible "no" or a "maybe" from a legislator, we called on our constituency network. It worked miracles!

We encountered many potential crises in the last days of the session. It is important to anticipate possible problems, and above all, be aware of and available to your key legislators. Do not afford yourself the luxury of being secure no matter how positive it appears. It is our hope that every state will secure a Family and Children's Trust Fund. It makes a powerful statement of our commitment to the importance of the well-being of the family in our society. We are extremely proud of the process and of the time, support and commitment of the many, many individuals in our state which led to the enactment of the first state children's trust fund legislation, the Kansas Family and Children's Trust Fund law.

Attachment B

# Child Abuse Model Standards and Guidelines

FOR MULTIDISCIPLINARY TEAMS  
IN PENNSYLVANIA

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## INTRODUCTION

This handbook is intended to assist county child welfare agency staffs and other interested parties to develop and improve Multidisciplinary Team services to abused and neglected children and their families.

On October 1, 1976 Frank S. Beal, Secretary of the Department of Public Welfare, requested top level staff assistance from various State Departments to join with the Department of Public Welfare to establish a State level Multidisciplinary Team.

The Team's major goal for 1976-77 was to develop a model with standards and guidelines for use by county child welfare agencies in establishing a county Multidisciplinary Team. This booklet represents the Team's efforts at pulling together all the general ideas on the Multidisciplinary Team concept and adapting them to Pennsylvania's law and particular needs.

The following individuals were assigned to represent their respective departments on this Statewide Team:

### DEPARTMENT OF JUSTICE

Attorney General's Office  
Mr. Paul Schilling, Deputy Attorney General

### JUVENILE COURT JUDGES COMMISSION

Honorable Harvey N. Schmidt

### DEPARTMENT OF EDUCATION

Ms. Frances DeWitt, Special Assistant,\* Deputy Secretary's Office  
Mr. John Christopher, Director, Bureau of Instructional Support Services  
Ms. Marian Lohr, Coordinator\*\*, School Health Services

### DEPARTMENT OF HEALTH

Dr. Annette Lynch, Director, Bureau of Children's Services

### PENNSYLVANIA STATE POLICE

Captain Salvador Rodriquez, Director, Community Relations Division

**GOVERNOR'S COUNCIL ON DRUG & ALCOHOL ABUSE**

Mr. Peter Pennington, Executive Assistant Director  
Ms. Debbie Metz, Co-member\*\*

**DEPARTMENT OF PUBLIC WELFARE**

Office of Mental Health:

Dr. Alan Handford, Director, Children & Youth Services  
Dr. James Reisinger, Staff Assistant

Office of Mental Retardation:

Ms. Carol Chalick, Chief, Division of Preventive Services

Office of Children and Youth:

Mr. Joseph Spear, Child Welfare Specialist\*\*\*  
Mr. Lee Miller, Administrator, ChildLine

**FEDERAL REGION III**

Mr. Gary Koch, Child Development Specialist, Department of Health,  
Education & Welfare

**DEVELOPMENT ASSOCIATES**

Ms. Patricia Vasquez, Project Director, Development Associates

I thank those Team Members who took time, including weekends,  
from their busy schedules and contributed valuable information and assist-  
ance to us.

We hope the remaining pages of information are meaningful to you  
and we welcome your comments.

Gordon Johnson, Team Coordinator  
Director, Bureau of Child Welfare

- \* Resigned from the Team
- \*\* New Member
- \*\*\* Assistant Team Coordinator

## PREFACE

The management of child abuse cases cuts across various professional disciplines and at one time or another may require the expertise of physicians, social workers, attorneys, psychologists, nurses, etc. With this in mind the concept of the Multidisciplinary Team was developed to prevent confusion to the child and parents and to allow the various professionals involved to work cooperatively for the betterment of all concerned. The treatment approach can be planned and implemented and services increased or decreased as the need arises. Through proper case management by the Team, the child can be maintained in his/her home environment with minimal risk and maximum treatment benefits.

The use of Multidisciplinary Teams also removes the awesome decisions and responsibilities from one person and distributes the responsibility among the various Team members. Since it does transcend one profession, it is appropriate that all professions involved in a particular case should meet to discuss the best approach to helping each particular family.

The use of Multidisciplinary Teams has the added advantage of minimizing the confusion to the client because it presents a systemized approach and coordinates the activities of all concerned and involved. This prevents a flood of helping persons from visiting the family and offering services which may be in direct contradiction to one another. It allows one person to take the leadership role with a particular family and to coordinate and arrange for other services as they are needed or indicated.

Multidisciplinary Teams can serve another valuable function for both the community in general and the child welfare agency administrator in particular by identifying gaps in service in the community and working to see that the necessary services are developed to fill this void. The Multidisciplinary Team can either develop these services directly or use their influence to convince the appropriate political structure that expansion or development of services is necessary.