

ALASKA LEGISLATURE COMMITTEE FILES 1905-1908 00/2

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Section

10. Declaration of policy

Sec. 46.03.010. Declaration of policy. (a) It is the policy of the state to conserve, improve and protect its natural resources and environment and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well-being.

(b) It is the policy of the state to improve and coordinate the environmental plans, functions, powers and programs of the state, in cooperation with the federal government, regions, local governments, other public and private organizations and concerned individuals, and to develop and manage the basic resources of water, land and air to the end that the state may fulfill its responsibility as trustee of the environment for the present and future generations. (§ 3 ch 120 SLA 1971)

NOTES TO DECISIONS

This chapter is not void for vagueness under the Alaska and United States constitutions. *Stock v. State*, Sup. Ct. Op. No. 1076 (File No. 2007), 526 P.2d 3 (1974).

When the somewhat shadowy boundaries of the area of prohibited conduct were contrasted with the overall purpose of this chapter and the absence of any evidence of discriminatory application, the supreme court could not say that the presumption of constitutionality of the statute was overcome. *Stock v. State*, Sup. Ct. Op. No. 1076 (File No. 2007), 526 P.2d 3 (1974).

There can be no doubt of the general frame of operation of this chapter; no

contention can be made that this chapter has a subterfuge purpose or effect of curtailing the exercise of protected political or individual rights to speech, association, privacy and the like. *Stock v. State*, Sup. Ct. Op. No. 1076 (File No. 2007), 526 P.2d 3 (1974).

As to adequacy of notice of what acts prohibited, see *Stock v. State*, Sup. Ct. Op. No. 1076 (File No. 2007), 526 P.2d 3 (1974).

The concern indicated by this chapter is the protection of the environment from pollution. *Stock v. State*, Sup. Ct. Op. No. 1076 (File No. 2007), 526 P.2d 3 (1974).

Collateral references. — 61A Am. Jur. 2d, Pollution Control, §§ 46-49; 39A C.J.S., Health and Environment, §§ 115-124.

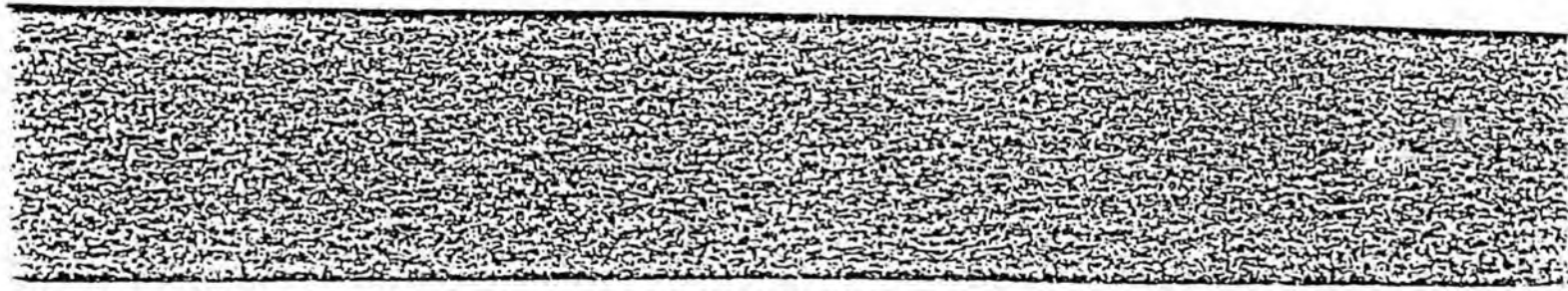
Power of state to prohibit or restrict exportation of natural resources. 32 ALR 331.

Preservation or protection of animals or birds as subject of charitable trust. 66 ALR 465.

Constitutionality of reforestation or forest conservation legislation. 13 ALR2d 1095.

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Article 2. Department of Environmental Conservation.

Section

- 20. Powers of the department
- 30. Grants for water supply, sewerage and solid waste facilities
- 40. Alaska environmental plan

Collateral references. — 61A Am. Jur. 2d, Pollution Control, § 6.  
39A C.J.S., Health and Environment, §§ 5, 9-15, 125-145.  
Power of state to prohibit or restrict exportation of natural resources, 32 ALR 331.  
Preservation or protection of animals or

birds as subject of charitable trust, 66 ALR 465.  
Constitutionality of reforestation or forest conservation legislation, 13 ALR2d 1095.  
Right to maintain action to enjoin public nuisance as affected by existence of pollution control agency, 60 ALR2d 665.

Sec. 46.03.020. Powers of the department. The department may  
(1) enter into contracts necessary or convenient to carry out the functions, powers and duties of the department;

(2) review and appraise programs and activities of state departments and agencies in light of the policy set out in AS 46.03.010 for the purpose of determining the extent to which the programs and activities are contributing to the achievement of that policy and to make recommendations to the departments and agencies, including but not limited to, environmental guidelines;

(3) consult with and cooperate with

(A) officials and representatives of any nonprofit corporation or organization in the state;

(B) persons, organizations and groups, public and private, using, served by, interested in or concerned with the environment of the state;

(4) appear and participate in proceedings before any state or federal regulatory agency involving or affecting the purposes of the department;

(5) undertake studies, inquiries, surveys or analyses it may consider essential to the accomplishment of the purposes of the department; these activities may be carried out by the personnel of the department or in cooperation with public or private agencies, including educational, civic and research organizations, colleges, universities, institutes and foundations;

(6) at reasonable times enter and inspect with the consent of the owner or occupier any property or premises to investigate either actual or suspected sources of pollution or contamination or to ascertain compliance or noncompliance with a regulation which may be promulgated under AS 46.03.020 — 46.03.040; information relating to secret processes or methods of manufacture discovered during investigation is confidential;

(7) conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books and documents by the issuance of a subpoena;

(8) advise and cooperate with municipal, regional and other local agencies and officials in the state, to carry out the purposes of this chapter;

(9) act as the official agency of the state in all matters affecting the purposes of the department under federal laws now or hereafter enacted;

(10) adopt regulations necessary to effectuate the purposes of this chapter, including, by way of example and not limitation, regulations providing for

(A) control, prevention and abatement of air, water, or land or subsurface land pollution;

(B) safeguarding standards for petroleum and natural gas pipeline construction, operation, modification or alteration;

(C) protection of public water supplies by establishing minimum drinking water standards, and standards for the construction, improvement, and maintenance of public water supply systems;

(D) collection and disposal of sewage and industrial waste;

(E) collection and disposal of garbage, refuse, and other discarded solid materials from industrial, commercial, agricultural and community activities or operations;

(F) Repealed by § 12 ch 172 SLA 1978.

(G) control of pesticides;

(H) such other purposes as may be required for the implementation of the policy declared in AS 46.03.010;

(I) handling, transportation, treatment, storage, and disposal of hazardous wastes;

(11) after consultation with other state agencies and local government officials, identify and propose for additional or deletion, by regulation, other licenses, permits or authorizations for which the provisions of AS 46.35 are applicable, and report annually to the legislature the permits which have been included or deleted. (§ 3 ch 120 SLA 1971; am § 1 ch 220 SLA 1976; am § 2 ch 60 SLA 1977; am § 12 ch 172 SLA 1978; am § 8 ch 93 SLA 1981)

Revisor's notes. — In ch. 120, SLA 1971, paragraph (6) of this section contained a reference to AS 46.03.030 — 46.03.040. The engrossed version of the bill (SB 75 am H) referred to "this article" which includes AS 46.03.020; therefore the provision has been corrected here to a reference to AS 46.03.020 — 46.03.040. In paragraph (11), a reference to AS 46.35 was substituted for a reference to 46.30 by the revisor of statutes under the authority of AS 01.05.031.

Cross references. — For status of enforcement and inspection employees of the Department of Environmental Conservation as peace officers, see AS 46.04.090(b). For provisions relating to environmental procedures coordination, see AS 46.35.010 et seq.

Effect of amendments. — The 1977 amendment added paragraph (11).

The 1978 amendment, in paragraph (10), repealed subparagraph (F), which read "control of radiation sources to pro-

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The 1951 amendment added subpara-  
graph (f) in paragraph (10)

Editor's notes. — Section 10, ch. 172,  
SLA 1975, provides: "Regulations adopted  
under authority of statutes repealed or

amended by this Act shall remain in effect  
until repealed by the Department of Envi-  
ronmental Conservation, in consultation  
with the Department of Health and Social  
Services."

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Sec. 46.03.030. Grants for water supply, sewerage and solid  
waste facilities. (a) Repealed by § 19 ch 220 SLA 1976.

(b) The department may grant to a municipality, as funds are avail-  
able, up to 50 percent of eligible costs not financed by the federal  
government, for public water supply, treatment and distribution sys-  
tems and public sewage collection, treatment and discharge facilities  
for which construction has not commenced on or before June 21, 1976.  
The eligible cost of a project or portions of a project will be as deter-  
mined by the federal agency granting the most monetary assistance.  
On projects or portions of projects, for which federal participation is not  
available, eligible costs will be determined by the department in accord-  
ance with (d) of this section. Projects shall be constructed in accord-  
ance with plans and specifications approved by the department.

(c) There is a water supply, sewerage and solid waste facilities fund  
created in the department to carry out the purposes of this section.

(d) The department shall, by regulation, identify those costs which  
are eligible costs for the purposes of this section. Eligible costs include  
the costs established in a construction contract which are necessary for  
construction of a project, but do not include the cost of interest and  
financing and right-of-way acquisition, or costs related to operation,  
maintenance, repair or replacement of a project.

(e) The department may grant to a municipality not more than 50  
percent of the eligible costs, including costs of obtaining federal  
waivers from the requirement for secondary treatment plants, which  
are not paid for by the federal government for solid waste processing  
or disposal facilities constructed after July 1, 1980. However, the  
department may grant a municipality up to 60 percent of the eligible  
costs not paid for by the federal government for a solid waste processing  
or disposal facility constructed after July 1, 1980, if the facility is used  
for resource recovery. The eligible costs of a solid waste processing or  
disposal facility are determined by the federal agency granting the  
most monetary assistance for construction of the facility. For a solid  
waste processing or disposal facility for which federal money is not  
available, the department shall determine the eligible costs in accord-  
ance with (d) of this section. A municipality shall construct solid  
waste processing or disposal facilities financed by grants under this  
section according to plans and specifications approved by the depart-  
ment. (S 3 ch 120 SLA 1971; am §§ 2, 19 ch 220 SLA 1976; am §§ 30,  
31 ch 168 SLA 1978; am §§ 1-4 ch 163 SLA 1980)

KEY POINTS FOR REVISIONS/AMENDMENTS TO TITLE 46, ALASKA STATUTES:

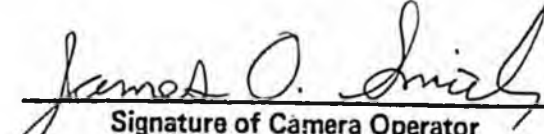
1. STATE POLICY: Section 46.03.010 "Declaration of Policy" provides overall guidance and authority for actions by the State of Alaska in improving and enhancing water quality.
2. Sen. Tim Kelly is offering revisions and amendments to Title 46, Alaska Statutes, that will allow the Department of Environmental Conservation to work with, assist and provide funding to local governments in Alaska in our efforts to enhance the quality of our surface and subsurface waters.
3. It is totally unacceptable that within the Great Land we now have polluted streams, rivers and lakes. State and local government, and all concerned people of our state must make correcting this situation a high priority. As custodians of our natural environment we owe it to ourselves and to our children to maintain the waters of this state in as high quality condition as reasonably possible.
4. For several years there has been in effect a program within DEC that was popularly referred to as the 50/50 match program. This program provided state grants to local governments for the purpose of constructing water and sewer systems and solid waste facilities. Sen. Kelly is proposing that this current program (46.03.G30 Grants) be expanded to include grant funding for surface and subsurface water quality enhancement.
5. Sen. Kelly believes that expanding the current program is preferable to instituting a new program for the following reasons:
  - a. The current 50/50 match program has been quite successful in the past and it is well accepted and even praised by both state and local officials.
  - b. The program is cost effective.
  - c. The program works.
  - d. This program encourages local participation and responsibility regarding water quality enhancement.
  - e. This is a long range solution, a comprehensive program that will enable state and local governments to make a continuing effort to enhance our water quality throughout the state.
  - f. State funds can go twice as far when they are combined with matching funds from local governments. We get twice the "bang for the buck".

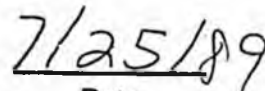
- h. By expanding the current program administrative cost are held to a minimum. No new state personnel positions will be required to administer this program. There already exists within DEC a municipal grants section, and this section will be able to carryout the expanded mission of Title 46. No new bureaucracy!
- i. This will be a statewide program that will enable DEC to allocate scarce resources on a logical and rational priority basis.
- j. This program, to a large degree, will de-politicize the regional allocation of resources.
- k. These revisions/amendments have the support of DEC and the Municipality of Anchorage.
- l. For the past couple of years this grant program has not recieved adequate funding. Sen. Kelly will work to fund this program at a reasonable level. DEC would like to see 15 to 20 million per year allocated to this program. Keep in mind that this will be funding statewide, domestic water systems, sewer systems, solid waste facilities and now water quality enhancement.
- m. It is very important that we get our residents off of on site septic systems and hooked into municipal sewer systems as soon as possible so our ground water does not become saturated beyond the point that it can naturally handle. By fully funding this program we will be able to make progress in this regard.



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
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DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

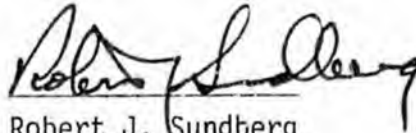
Support

01/27/86

SSHB471 "An Act relating to the abuse and neglect of children".

This legislation will reverse the present reporting requirements under AS 47.17.020 in that law enforcement agencies will be notified first in cases of suspected child abuse or neglect. This change will speed up the initiation of these investigations. The Dept. of H&SS is then notified by the law enforcement agency.

There is nothing in this bill which changes the course of action currently being taken other than to hasten the involvement of law enforcement agencies. No additional work load or costs are anticipated.



Robert J. Sundberg

STATE OF ALASKA 1986 LEGISLATIVE SESSION -  
FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : SS HB 471  
 Title : An Act relating to Abuse and Neglect of Children  
 Sponsor : Goll and Gruenberg  
 Requestor : \_\_\_\_\_  
 Date of Request : 1/24/86

**FISCAL DETAIL**

Agency Affected : Health & Social Services  
 BRU : Social Services  
Youth Services  
 Components : \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING : (Thousands of Dollars)**

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

**POSITIONS :**

FULL-TIME		-0-	-0-	-0-	-0-	-0-
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**ANALYSIS :** Attach a separate page if necessary

Prepared by : Michael L. Price, Director *Michael L. Price* Phone : 465-3170  
 Division : Family and Youth Services Date : January 27, 1986 *pc*

Approved by Commissioner : John R. Pugh *John R. Pugh* Date : 1/28/86  
 Agency : Health and Social Services

- Distribution (by Agency preparing fiscal note) :
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

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

**REQUEST**

Bill/Resolution No. : SSHB 471  
 Title : "an act relating to the abuse  
 and neglect of children."  
 Sponsor : Rep. Goll and Rep. Gruenberg  
 Requestor : H. HESS  
 Date of Request : 1/28/86

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : Alaska State Troopers  
 Components : \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0

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

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

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Kathy Niles  
 Kathy Niles, Admin. Ass't  
 Division : Commissioner's Office

Phone : 465-4336  
 Date : 1/27/86

Approved by Commissioner : [Signature]  
 Agency : Public Safety

Date : 1/28/86

Distribution (by Agency preparing fiscal note) :

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

MEMORANDUM

TO: ALL HOUSE HESS COMMITTEE MEMBERS  
FROM: NANCY BENNETT, COMMITTEE STAFF  
DATE: JANUARY 28, 1986  
RE: TODAY'S MEETING

We have two bills relating to children scheduled for today:  
SSHB 471 (Goll) relating to the abuse and neglect of children

This bill would amend existing statute to provide that persons required to report under AS 47.17.020 shall make reports of harm to children to the nearest law enforcement agency if the abuser is not related to the child, or the reporter is not sure who has harmed the child or the relationship of the abuser to the child.

Rep. Goll has informed staff that he intends to offer an amendment to the committee concerning the definition of child abuse. (NOTE: the definition of "child abuse and neglect" in 47.17.070 defines abuse and neglect only in terms of maltreatment and injury by a person responsible for the child's welfare)

HB 457 (Taylor) relating to children's records

This bill amends AS 47.10.090 (a) by divided existing law into two sections. This bill is based on California law.

Section 1 repeals subsection (a) replacing it with language which defines in statute exactly who can inspect court records of a juvenile (the minor, the minor's parents/guardian, attorneys for either party and other persons by court order)

Section 2 adds a new section to Title 47 dealing with the sealing and destruction of juvenile records. Current law provides that the court shall automatically seal records of a juvenile (except for traffic offenses) within 30 days of the date the court relinquishes custody. The bill would provide that a minor or the department must petition the court to close the records. The court is charged with notifying the minor of this right. The court must have a hearing and find that the minor has not committed a felony and has successfully completed a recommended plan of rehabilitation in order to seal the records. Five years after the records are sealed, the court shall order destruction of the records unless, for good cause shown, the court retains the records.

Introduced: 1/17/86  
Referred: Health, Education and  
Social Services and Judiciary

1 IN THE HOUSE

BY GOLL AND GRUENBERG

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the abuse and neglect of chil-  
7 dren."

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

9 \* Section 1. AS 47.17.020 is amended by adding a new subsection to  
10 read:

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

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**Sec. 47.17.010. Purpose.**

NOTES TO DECISIONS

Cited in *Gerlach v. State*, Ct. App. Op. No. 468 (File No. A-501), P.2d (1985).

**Sec. 47.17.020. Persons required to report.** (a) The following persons who, in the performance of their occupational duties, have cause to believe that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department:

- (1) practitioners of the healing arts;
- (2) school teachers and school administrative staff members of public and private schools;
- (3) social workers;
- (4) peace officers, and officers of the Department of Corrections;
- (5) administrative officers of institutions;
- (6) child care providers;
- (7) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.900.

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

(c) If the person making a report of harm under this section cannot reasonably contact the nearest office of the department and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall take immediate action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department.

(d) This section does not require a religious healing practitioner to report as neglect of a child the failure to provide medical attention to the child if the child is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination. (§ 1 ch 100 SLA 1971; am §§ 4, 5 ch 104 SLA 1982; am E.O. No. 55, § 42 (1984); am §§ 8—10 ch 39 SLA 1985)

**Effect of amendments.** — The 1985 amendment rewrote subsections (a) and (b) and added subsection (d), effective July 1, 1985.

**Sec. 47.17.023. Reports regarding child pornography.** A person who, in the course of processing or producing visual or printed matter, either privately or commercially, has reason to believe that the matter visually depicts a child engaged in conduct described in AS 11.41.455(a) shall promptly report this to the nearest law enforcement agency, and provide the law enforcement agency with all information known about the nature and origin of the matter. (§ 11 ch 39 SLA 1985)

**Effective dates.** — Section 19, ch. 39, SLA 1985 provides: "This Act takes effect July 1, 1985."

**Sec. 47.17.030. Action on reports; termination of parental rights.**

NOTES TO DECISIONS

Cited in *Gerlach v. State*, Ct. App. Op. No. 468 (File No. A-501), P.2d (1985).

**Sec. 47.17.040. Central registry; confidentiality.**

NOTES TO DECISIONS

Cited in *Gerlach v. State*, Ct. App. Op. No. 468 (File No. A-501), P.2d (1985).

**Sec. 47.17.060. Evidence not privileged.**

**"Judicial proceeding"** — The phrase "judicial proceeding related to a report made under this chapter" in this section only refers to child protection proceedings under AS 47.10.010. *State v. Wetherhorn*, Ct. App. Op. No. 375 (File No. 7768), 683 P.2d 269 (1984).

**Sec. 47.17.064. Photographs and x-rays.** (a) The department or a practitioner of the healing arts may, without the permission of the parents, guardian, or custodian, take the following actions with regard to a child believed to have suffered physical harm as a result of child abuse or neglect:

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

NOTES TO DECISIONS

For discussion of constitutional problems in interpreting this section to abrogate psychotherapist privilege in criminal proceedings, see *State v. R.H.*, Ct. App. Op. No. 375 (File No. 7768), P.2d (1984).

**Applicability to psychologists.** — The court assumed but did not decide that this section applies to psychologists, who are not physicians. *State v. R.H.*, Ct. App. Op. No. 375 (File No. 7768), P.2d (1984).

**"Judicial proceeding"**. — This section only applies to child protective proceedings instituted under AS 47.10 and not to criminal proceeding for sexual abuse. *State v. R.H.*, Ct. App. Op. No. 375 (File No. 7768), P.2d (1984).

Giving the Department of Health and Social Services primary control of the abused child again indicates a legislative intent that the "judicial proceedings"

referred to in this section occur through the department in relation to protective services, and are civil rather than criminal. *State v. R.H.*, Ct. App. Op. No. 375 (File No. 7768), P.2d (1984).

Since AS 47.17.025 refers to the Department of Law, without reference to the criminal division, AS 47.17.025 does not, standing alone, necessarily resurrect the requirement of former AS 11.67.040 that the district attorney receive child abuse reports; nor does it establish an intent that child abuse reports result in criminal prosecutions; and consequently, the Court of Appeals could not find that a criminal prosecution for child sexual abuse is necessarily "a judicial proceeding related to a report made under this chapter" pursuant to this section. *State v. R.H.*, Ct. App. Op. No. 375 (File No. 7768), P.2d (1984).

**Sec. 47.17.064. Photographs and x-rays.** The department or a person required under AS 47.17.020(a)(1) to report that a child suffered substantial harm as a result of physical abuse or neglect may without the permission of the parents

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

(2) if medically indicated, have a radiological examination of the child performed. (§ 7 ch 104 SLA 1982)

**Sec. 47.17.068. Penalty for failure to report.** A person required to file a report of abuse or neglect under AS 47.17.020 who wilfully or knowingly fails or refuses to report the harm required under AS 47.17.020 is guilty of a class B misdemeanor. (§ 7 ch 104 SLA 1982)

**Cross references.** — For penalties for misdemeanors, see AS 12.55.135.

**Sec. 47.17.070. Definitions.** In AS 47.17.010 — 47.17.070

(1) "child abuse or neglect" means the physical 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;

(2) "child" means a person under 18 years of age;

(3) "department" means the Department of Health and Social Services;

(4) "institution" means a private or public hospital or other facility providing medical diagnosis, treatment, or care;

(5) "neglect" means the failure to provide necessary food, care, clothing, shelter, or medical attention for a child;

(6) "practitioner of the healing arts" includes chiropractors, dentists, health aides, nurses, optometrists, osteopaths, physical therapists, physicians, psychiatrists, psychologists, religious healing practitioners, and surgeons;

(7) "sexual exploitation" means

(A) permission or encouragement to a child for prostitution prohibited by AS 11.66.100 — 11.66.150 by a person responsible for the child's welfare;

(B) permission, encouragement, or activity involved in the unlawful exploitation of a minor prohibited by AS 11.41.455 by a person responsible for the minor's welfare. (§ 1 ch 106 SLA 1971; am § 6 ch 104 SLA 1971; am § 3 ch 222 SLA 1976; am §§ 56, 57 ch 94 SLA 1980; am §§ 8, 9 ch 104 SLA 1982)

**Effect of amendments.** — The 1980 amendment substituted "18" for "eighteen" near the middle of paragraph (1), and substituted "18" for "16" in paragraph (2).

The 1982 amendment inserted "or neglect" and "sexual exploitation" in paragraph (1) and added paragraph (7).

NOTES TO DECISIONS

Where parents refuse permission for blood transfusion because of religious conviction, the state may intercede and make the child a dependent minor by the parents' failure to provide medical

attention under paragraph (5) of this section, obtaining custody and thereafter consenting to the operation. In re Lausterer, Superior Court, 3rd Jud. Dist., No. CP2720 (1972).

Chapter 20. Exceptional Children.

Section

05. Purpose

10. Assistance authorized

Section

20. Standards for assistance

50. Definitions

**Sec. 47.20.005. Purpose.** It is the purpose of AS 47.20.005 — 47.20.050 to provide appropriate public education and training for the exceptional children in this state who have not reached the age of three. To the maximum extent possible, the department shall establish a learning program which emphasizes individual needs, is home based, and involves parents in the education and training of their children. (§ 1 ch 77 SLA 1978)

**Sec. 47.20.010. Assistance authorized.** (a) The department shall provide professional guidance and financial assistance to organized groups of parents, nonprofit corporations, school districts, and regional educational attendance areas.

POSITION PAPER

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471

For an Act entitled: "An Act relating to the abuse and neglect of children."

This bill would add to and clarify the responsibility of persons now required to report instances of suspected child abuse or neglect. It would make reporting mandatory in suspected instances of child abuse or neglect involving perpetrators who are not responsible for the child's welfare or in situations in which the perpetrator is unknown. The current statute requires that specified persons report only when it is suspected that the person responsible for the child's welfare is the perpetrator.

The amendment also requires that reports of abuse or neglect of this nature be reported to the nearest law enforcement agency, as distinguished from reports involving perpetrators within the family, which are reported to the Department of Health and Social Services.

The department supports the amendment.

RECOMMENDED:

*Michael L. Price*

Michael L. Price, Director  
Division of Family  
and Youth Services

DATE: January 28, 1986

APPROVED:

*John R. Pugh*  
John R. Pugh, Commissioner  
Department of Health  
and Social Services

DATE: 1/28/86

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : SS HB 471  
 Title : An Act relating to Abuse and Neglect of Children  
 Sponsor : Goll and Gruenberg  
 Requestor : \_\_\_\_\_  
 Date of Request : 1/24/86

**FISCAL DETAIL**

Agency Affected : Health & Social Services  
 BRU : Social Services  
Youth Services  
 Components : \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

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

**POSITIONS :**

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

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

Prepared by : Michael L. Price, Director  
 Division : Family and Youth Services

Phone : 465-3170  
 Date : January 27, 1986 *cc*

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

Date : 1/28/86

Distribution (by Agency preparing fiscal note) :

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

1 AN ACT Relating to assault; amending RCW 9A.04.110, 9A.16.020, CR 9A  
 2 and 10.99.020; adding a new section to chapter 9A.16 RCW; adding new  
 3 sections to chapter 9A.36 RCW; creating a new section; repealing RCW  
 4 9A.36.010, 9A.36.020, 9A.36.030, 9A.36.040, and 28A.87.14C; -J257  
 5 prescribing penalties; and providing an effective date. :1

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON: PAATA

7 Sec. 1. Section 9A.04.110, chapter 260, Laws of 1975 1st ex. :10  
 8 sess. and RCW 9A.04.110 are each amended to read as follows: 21

9 In this title unless a different meaning plainly is required: 22

10 (1) "Acted" includes, where relevant, omitted to act; 23

11 (2) "Actor" includes, where relevant, a person failing to act; 24

12 (3) "Assault" is: 25

13 (a) An act done with intent to cause fear in another of immediate 26  
 14 bodily harm or death to that person or another; 27

15 (b) The intentional infliction of or attempt to inflict bodily 28  
 16 harm upon another; or 29

17 (c) An intentional touching which would be offensive to a 30  
 18 reasonable person or which creates an unreasonable risk of bodily 31  
 19 harm to another; 32

20 (4) "Benefit" is any gain or advantage to the beneficiary, 33  
 21 including any gain or advantage to a third person pursuant to the 34  
 22 desire or consent of the beneficiary; 35

23 ((1)) (5) "Bodily injury" ((or)) "physical injury" or 36  
 24 "bodily harm" means physical pain or injury, illness, or an 37  
 25 impairment of physical condition; 38

26 (b) "Substantial bodily harm" means bodily injury which involves 39  
 27 a temporary but substantial impairment, or which causes 40  
 28 temporary but substantial loss or impairment of the function of any 41  
 29 bodily part or organ, or which causes a fracture of any bodily part; 42

1        ~~(c)~~ "Great bodily harm" means serious bodily injury which creates a high 41  
 2 probability of death, or which causes serious permanent 42  
 3 disfigurement, or which causes a permanent or protracted loss of 43  
 4 impairment of the function of any bodily part or organ: 44

5        ~~((45))~~ (6) "Building", in addition to its ordinary meaning, 45  
 6 includes any dwelling, fenced area, vehicle, railway car, cargo 46  
 7 container, or any other structure used for lodging of persons or for 47  
 8 carrying on business therein, or for the use, hire or deposit of 48  
 9 goods; each unit of a building consisting of two or more units 49  
 10 separately secured or occupied is a separate building; 50

11        ~~((46))~~ (7) "Deadly weapon" means any explosive or loaded or 51  
 12 unloaded firearm, and shall include any other weapon, device, 52  
 13 instrument, article, or substance, including a "vehicle" as defined 53  
 14 in this section, which, under the circumstances in which it is used, 54  
 15 attempted to be used, or threatened to be used, is readily capable of 55  
 16 causing death or ~~((serious-bodily-injury))~~ substantial bodily harm: 56

17        ~~((47))~~ (8) "Dwelling" means any building or structure, though 57  
 18 movable or temporary, or a portion thereof, which is used or 58  
 19 ordinarily used by a person for lodging; 59

20        ~~((48))~~ (9) "Government" includes any branch, subdivision, or 60  
 21 agency of the government of this state and any county, city, 61  
 22 district, or other local governmental unit; 62

23        ~~((49))~~ (10) "Governmental function" includes any activity which 63  
 24 a public servant is legally authorized or permitted to undertake on 64  
 25 behalf of a government; 65

26        ~~((50))~~ (11) "Indicted" and "indictment" include "informed 66  
 27 against" and "information", and "informed against" and "information" 67  
 28 include "indicted" and "indictment"; 68

29        ~~((51))~~ (12) "Judge" includes every judicial officer authorized 69  
 30 alone or with others, to hold or preside over a court; 70

31        ~~((52))~~ (13) "Malice" and "maliciously" shall import an evil 71  
 32 intent, wish, or design to vex, annoy or injure another person. 72  
 33 Malice may be inferred from an act done in wilful disregard of the 73  
 34 rights of another or an act wrongfully done without just cause or 74  
 35 excuse, or an act or omission of duty betraying a wilful disregard of 75  
 36 social duty; 76

Original sponsors: Goll and Gruenberg

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the abuse and neglect of chil-  
7 dren."

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

9 \* Section 1. AS 47.17.020 is amended by adding a new subsection to  
10 read:

11 (e) A person listed in (a) of this section, who in the perfor-  
12 mance of the person's occupational duties has cause to believe that a  
13 child has suffered harm as a result of abuse or neglect, shall prompt-  
14 ly report the harm to the nearest law enforcement agency if the person  
15 making the report (1) has cause to believe that the harm was caused by  
16 a person who is not responsible for the child's welfare; or (2) is  
17 unable to determine (A) who caused the harm to the child; or (B)  
18 whether the person who is believed to have caused the harm has respon-  
19 sibility for the child's welfare. If a person making a report under  
20 this subsection cannot reasonably contact the nearest law enforcement  
21 agency, and immediate action appears necessary for the well-being of  
22 the child, the person shall make the report to the nearest office of  
23 the department. The department shall take immediate action to protect  
24 the child and shall, at the earliest opportunity, notify the nearest  
25 law enforcement agency. In this subsection, "abuse" means the phys-  
26 ical injury, sexual abuse, sexual exploitation, or maltreatment of a  
27 child by any person under circumstances that indicate that the child's  
28 health or welfare is harmed or threatened.

Original sponsors: Goll and Gruenberg

1 IN THE HOUSE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the abuse and neglect of chil-  
7 dren."

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

9 \* Section 1. AS 47.17.020 is repealed and reenacted to read:

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

- 13 (1) practitioners of the healing arts;
- 14 (2) school teachers and school administrative staff members  
15 of public and private schools;
- 16 (3) social workers;
- 17 (4) peace officers, and officers of the Department of  
18 Corrections;
- 19 (5) administrative officers of institutions;
- 20 (6) child care providers;
- 21 (7) paid employees of domestic violence and sexual assault  
22 programs, and crisis intervention and prevention programs as defined  
23 in AS 18.66.900.

24 (b) A person listed in (a) of this section, who in the perfor-  
25 mance of the person's occupational duties has cause to believe that a  
26 child has suffered harm as a result of abuse or neglect by a person  
27 responsible for the child's welfare, shall promptly report the harm to  
28 the nearest office of the department. If the person making a report  
29 of harm under this subsection cannot reasonably contact the nearest

1 office of the department and immediate action is necessary for the  
2 well-being of the child, the person shall make the report to a peace  
3 officer. The peace officer shall take immediate action to protect the  
4 child and shall, at the earliest opportunity, notify the nearest  
5 office of the department.

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

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

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

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

5 (f) In this section, "abuse" means the physical injury, sexual  
6 abuse, sexual exploitation, or maltreatment of a child under circum-  
7 stances that indicate that the child's health or welfare is harmed or  
8 threatened.

HOUSE BILL NO. 524

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to reporting of child abuse or neglect."

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

\* Section 1. AS 47.17.070(2) is amended to read:

(2) "child abuse or neglect" means the physical injury or neglect, mental injury, 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;

\* Sec. 2. AS 47.17.070(10) is amended to read:

(10) "sexual exploitation" includes [MEANS]

(A) allowing, permitting, or encouraging [PERMISSION OR ENCOURAGEMENT TO] a child to engage in [FOR] prostitution prohibited by AS 11.66.100 -- 11.66.150, by a person responsible for the child's welfare;

(B) allowing, permitting, encouraging, or engaging in [PERMISSION, ENCOURAGEMENT, OR] activity [INVOLVED IN THE UNLAWFUL EXPLOITATION OF A MINOR] prohibited by AS 11.41.455(a) [11.41.455], by a person responsible for the child's [MINOR'S] welfare.

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 29, 1986

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill amending two definitions in the child protection statutes, to bring our statutes into compliance with federal law.

The first amendment expands AS 47.17.070(2)'s definition of "child abuse or neglect" to expressly include "mental injury."

The second amendment clarifies AS 47.17.070(10)'s definition of "sexual exploitation." It makes clear that "allowing," i.e., not preventing, a child's participation in acts of prostitution, or engaging in conduct that constitutes criminal exploitation of a minor, is considered sexual exploitation for the purposes of finding child abuse or neglect.

By bringing Alaska's child protection statutes into compliance with the Child Abuse and Prevention Act, 42 U.S.C. sec. 5101 et seq, the amendments make the state eligible to receive federal grants for developing, supporting, and implementing child abuse and neglect programs. Alaska is currently operating under a one-year waiver of the federal eligibility requirements, granted June 26, 1985 by the regional administrator of the U.S. Department of Health and

Human Services. Because child abuse and neglect is a pressing problem in our state, and because federal support for our efforts to prevent and treat the problem is highly desirable, I urge your prompt passage of this bill.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield". The signature is written in dark ink and is positioned above the printed name and title.

Bill Sheffield  
Governor

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**     HB 524 #1  
 Bill Resolution No. : Law #377-064-86  
 Title : An Act relating to reporting of  
           child abuse or neglect  
 \_\_\_\_\_  
 Sponsor : \_\_\_\_\_  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**  
 Agency Affected : Public Safety  
 Program : Domestic Violence and Sexual  
               Assault  
 \_\_\_\_\_  
 Components : Domestic Violence & Sexual  
                   Assault  
 \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

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

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary. No financial impact. According to AS 18.66.010, the purpose of the Council on Domestic Violence and Sexual Assault is to provide for planning and coordination of services to victims of domestic violence, sexual assault or to their families; to perpetrators of domestic violence and sexual assault; to provide for crisis intervention and prevention programs. This fiscal note expands the definition in the Child Protection Statute of Alaska.

Prepared by : Joseph Reeves, Budget Analyst     Phone : 465-4349  
 Division : Administrative Services     Date : 12/27/85

Approved by Commissioner : [Signature]     Date : 12/31/85  
 Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note) :

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

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : 377-064-86  
 Title : An Act relating to the  
protection of children - mental  
injury  
 Sponsor : Judiciary  
 Requester : \_\_\_\_\_  
 Date of Request : 12/18/85

**FISCAL DETAIL**

Agency Affected : DHSS-DFYS  
 BRU : \_\_\_\_\_  
 \_\_\_\_\_  
 Components : \_\_\_\_\_  
 \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		196.5	196.5	196.5	196.5	196.5
TRAVEL		10.5	10.5	10.5	10.5	10.5
CONTRACTUAL		27.3	2.5	2.5	2.5	2.5
SUPPLIES		2.5	2.5	2.5	2.5	2.5
EQUIPMENT		7.3				
LAND & STRUCTURES						
GRANTS, CLAIMS		248.4	248.4	248.4	248.4	248.5
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>492.5</b>	<b>460.4</b>	<b>460.4</b>	<b>460.4</b>	<b>460.4</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		492.5	460.4	460.4	460.4	460.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>492.5</b>	<b>460.4</b>	<b>460.4</b>	<b>460.4</b>	<b>460.4</b>

**POSITIONS :**

FULL-TIME		5	5	5	5	5
PART-TIME						
TEMPORARY						

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

Prepared by : Michael J. Price  
 Division : Family and Youth Services  
 Approved by Commissioner : John R. Poy  
 Agency : DHSS

Phone : 465-3170  
 Date : 12/24/85  
 Date : 12/31/85

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

FISCAL NOTE  
FOR MENTAL INJURY

In FY 85, a zero fiscal note was submitted with similar legislation and was later amended in committee through a memo from Commissioner John Pugh to \$1.5 million based on subsequent analysis (copy attached). Recently the division has had an opportunity to discuss the analysis prepared for Representative Gruenberg with a national expert in mental injury, James Garbarino. Our fiscal note is revised based on his analysis of the probable financial impact. A brief summary of his analysis is presented under the heading "Assumptions" below. The division hopes to obtain, through contract with Mr. Garbarino in early January, an in-depth analysis of issues summarized below for attachment to the fiscal note.

Assumptions

Total caseload percentage growth per year for child abuse and neglect in Alaska has exceeded the national percentage for the past several years. Attached is a chart showing the national percentage increase in FY 84 to be 14%. The growth for the same time and client category in Alaska was 18%. Although caseloads continue to increase nationally, they are increasing at a lower rate. The trend in Alaska is expected to more closely parallel the national growth rate in upcoming years. Because Alaska is presently reporting at a higher rate than other states, it is anticipated that the total increase in caseload would not be as significant as previously thought. This is so because, unlike sexual abuse cases which increased dramatically after they were included in the definition of child abuse, mental injury cases are already being dealt with by other professionals such as private therapists and school personnel and are currently being reported to some extent under other categories of abuse/neglect. It is anticipated that the inclusion of mental injury would increase the caseload the first year 2% to 3% rather than 5% as previously indicated. Additionally, if the five clinical psychologist positions included in the Governor's budget are funded, the cost of evaluations for the division would decrease.

Program Summary

A caseload increase of two to three percent, rather than five percent, would translate into approximately half the resource requirements identified in the attached analysis prepared for Representative Gruenberg last year.

1. Positions Needed

5 Total

4 Social Workers  
1 Clerical

Total Personnel and Support Costs

\$ 244,100

2. Psychological evaluations	\$ 25,000
(This amount would be reduced even further if the request for funding of Division clinical psychologists is made available)	
3. Psychological Counseling	\$ 90,000
(This amount would be reduced even further if the request for funding of Division clinical psychologists is made available)	
4. A. Substitute Care	
19 FTE's @ 19.24 per day =	\$ 133,422
	TOTAL \$ 492,522

Federal Receipts

Passage of this legislation would place Alaska in compliance with the Child Abuse and Prevention Act causing the State to be eligible to receive federal grants for developing, supporting, and implementing child abuse and neglect programs. While the federal grant fund cannot replace or supplant State money or responsibilities, the grants greatly assist the State in developing child protection programs. During FY 85 (conditional upon attempts to secure passage of this legislation) the State is receiving \$109,939 in Child Abuse Prevention and Treatment Act Grant Funds. A minimum of \$79,000 in grant funds is anticipated for FY 87. If passage of the legislation is not secured, grant funds will not be available to Alaska after FY 87.

While securing federal funds is important during a period of declining oil revenues, this legislation is also sound social policy.

Prepared by: Michael L. Price, Director *Frank Hecker for*  
 Division: Division of Family and Youth Services

Position Title <u>Social Worker 111</u>			No. of Positions <u>1</u>	Range/Step <u>16/A</u>	Barg. Unit <u>GGU</u>	Gov. <u></u>	Approv. <u></u>	Disapp. <u></u>
Time Status <u>PFT</u>	Staff Months <u>12</u>	RP Number <u></u>	Location <u>Juneau</u>		Election District <u></u>	Leg. <u></u>	<u></u>	<u></u>
Type of Expenditure			Justification:					
1		2	3					
Salary		33,660	Responsibility to investigate reports of harm to children and to formulate a judgement to remove or not remove a child from an abusive situation. This entails an assessment of the client's emotional and environmental situation that may or may not be in crisis. Information is prepared for custody hearings based on established investigation techniques and close observation of client's actions and behaviors. Information must be verified and logically organized into a plan of treatment and care with recommendations for further action if necessary.					
Benefits		7,332						
Premium Pay								
Other								
Total Personal Services		40,992						
Travel		1,500						
Contractual		5,950						
Commodities		400						
Equipment		1,367						
Other								
Total Cost		50,109						
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1001					
			General Funds 1004 50,109					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
For B&M Use Only								
Key Number								

**Request For  
New Position**

Agency Health & Social Services  
 BRU Social Services  
 Component Southeastern

**FY 87**

Page 1 of 1  
 Revised Date

Position Title Social Worker III			No. of Positions 1	Range/Step 16/A	Barg. Unit CCU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Fairbanks		Election District	Leg.		
Type of Expenditure			Justification					
1		2	3					
Salary		38,772	Responsibility to investigate reports of harm to children and to formulate a judgement to remove or not remove a child from an abusive situation. This entails an assessment of the client's emotional and environmental situation that may or may not be in crisis. Information is prepared for custody hearings based on established investigation techniques and close observation of client's actions and behaviors. Information must be verified and logically organized into a plan of treatment and care with recommendations for further action if necessary.					
Benefits		6,431						
Premium Pay								
Other								
Total Personal Services		45,203						
Travel		1,500						
Contractual		5,950						
Commodities		400						
Equipment		1,367						
Other								
Total Cost		54,420						
Receipt Code		Funding Source						
		Federal Receipts	1002					
		G. F. Match	1003					
		General Funds	1004	54,420				
		I-A Receipts	1005					
		Program Receipts	1028					
		CIP Receipts	1061					
		Other						
For B&M Use Only Key Number _____								

**Request For  
New Position**

Agency Health & Social Services  
 BRU Social Services  
 Component Northern

Page 1 of 1  
 Revised Date

**FY 87**

Position Title Social Worker 111			No. of Positions 2	Range/Step 16/A	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Anchorage		Election District	Leg.		
Justification								
responsibility to investigate reports of harm to children and to formulate a judgement to remove or not remove a child from an abusive situation. This entails an assessment of the client's emotional and environmental situation that may or may not be in crisis. Information is prepared for custody hearings based on established investigation techniques and close observation of client's actions and behaviors. Information must be verified and logically organized into a plan of treatment and care with recommendations for further action if necessary.								
Type of Expenditure			Amount					
1			2			3		
Salary			67,320					
Benefits			14,664					
Premium Pay								
Other								
Total Personal Services						81,984		
Travel						3,000		
Contractual						11,900		
Commodities						800		
Equipment						2,734		
Other								
Total Cost						100,418		
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004			100,418		
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
For B&M Use Only Key Number _____								

**Request For  
New Position**

Agency Health & Social Services  
 BRU Social Services  
 Component Southcentral

**FY 87**

Page 1 of 1  
 Revised Date

Position Title Clerk-Typist III			No. of Positions 1	Range/Step 8A	Barg. Unit CCU	Gov.	Approv.	Disapp.
Time Status PFT	Start Months 12	RP Number	Location Anchorage		Election District	Leg.		
Type of Expenditure			Justification					
1		2	3					
Salary		20,316	<p>The September 18, 1984 Report to the Governor on Child Abuse and Neglect in Alaska showed that clerical support staff had only increased 6% during the period FY 78 through FY 83 while the caseload increased 173%. The result was that social workers were performing a large amount of clerical work. While 15 clerical support positions were funded by the legislature for FY 86, the clerical shortage is a continuing problem.</p> <p>This clerk-typist III will perform a clerical support function in the Anchorage Service Unit, typing court documents and preparing other materials as required.</p>					
Benefits		5,963						
Premium Pay								
Other								
Total Personal Services		26,279						
Travel		-0-						
Contractual		5,950						
Commodities		400						
Equipment		1,357						
Other								
Total Cost		33,996						
Receipt Code		Funding Source						
		Federal Receipts 1002						
		G. F. Match 1003						
		General Funds 1004		33,996				
		I A Receipts 1005						
		Program Receipts 1028						
		CIP Receipts 1061						
		Other						
<div style="border: 1px solid black; padding: 5px; width: fit-content;">             For B&amp;M Use Only              Key Number _____           </div>								

Request For  
New Position

Agency Health & Social Services  
 BRU Social Services  
 Component Southcentral

Page 1 of 1  
Revised Date \_\_\_\_\_

FY 87

April 8, 1985

The Honorable Max Gruenberg  
Alaska State House  
Pouch V  
Juneau, AK 99811

Dear Representative Gruenberg:

This letter is to provide you information regarding the impacts of inclusion of "mental injury" in AS 26.

While the per capita reporting of physical abuse and neglect in Alaska is twice the national average, the percentage breakdowns for physical abuse, child sexual abuse, and neglect are comparable ("Trends in Child Abuse and Neglect: A National Perspective"). That is to say, the proportions of abuse and neglect in Alaska parallel the national occurrence for these categories. Hence, it may be assumed that should the State implement mental injury reporting requirements, the impact would be comparable to the national experience. Nationally, emotional maltreatment was reported as a type of harm suffered in 17% of all reported cases of child abuse or neglect from 1976 - 1982. I estimate the ultimate number of mental injury reports in Alaska to be somewhat lower - approximately 10% of abuse/neglect reports - since some mental injury cases are already being dealt with under existing law, AS 47.10.010 (a)(2)(B), and because some overlap occurs. Reports of harm may include more than one type of maltreatment, e.g., physical abuse and mental injury so that the expected number of reports which involved only mental injury would be lower than 17% of the total, more likely about 10%. I would also expect that the full impact of implementing mental injury reporting requirements would not be experienced immediately. Rather, it would occur over a period of time as public awareness increased and reporters became more familiar with both the requirement to report and indicators of emotional maltreatment. As explained, I would estimate a 10% increase in total child protection reports to ultimately occur. However, I project only a 5% increase during the first year of implementation, with additional increases in succeeding years. Based on FY 84 caseloads, this would mean an additional 507 reports in FY 85, increasing to over 1,000 additional reports by FY 88.

Because of the nature and complexity of these cases, mental injury investigations are expected to require approximately twice the staff time needed to investigate reports of other types of harm. It is much easier to assess observable, physical evidence such as bruises, than it is to confirm a child's reported behavior as being the result of the particular actions. A very conservative estimate of time needed would

Rep. Max Gruenberg

- 3 -

April 3, 1985

Costs for succeeding years would, of course, reflect increases based on projections from actual cases in FY 86.

I hope this information is helpful when assessing the inclusion of mental injury in proposed legislation.

Sincerely,

John R. Pugh  
Commissioner

cc: The Honorable Peter Goll  
Alaska State House

JRP:MLP:FH:jsd

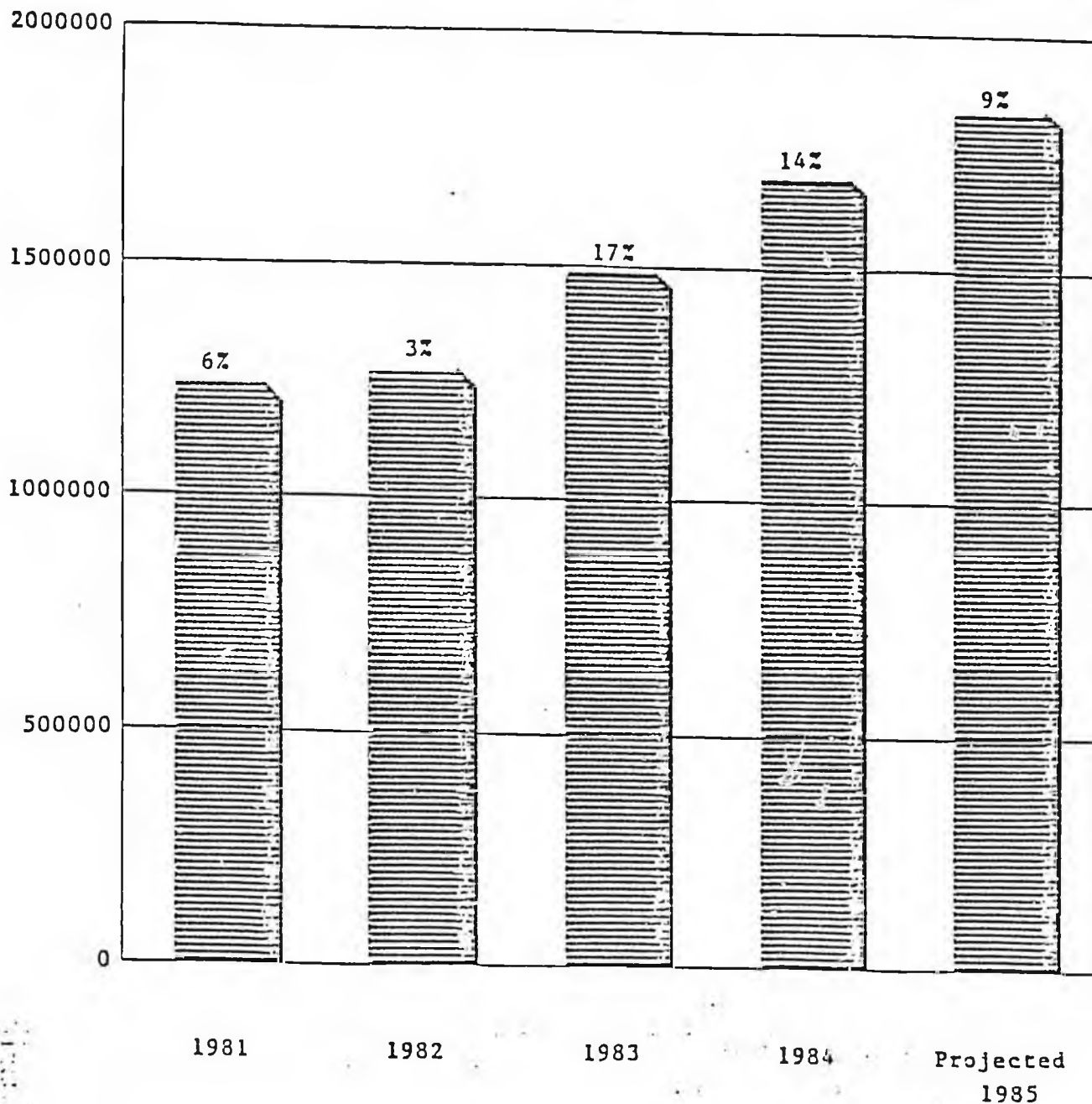
bcc: Division of Family and Youth Services

5/HFRNK2/Goll, Gruenberg Ltr/D43259/F#790,HB 63/4-4-85

FIGURE I

# ACTUAL AND PERCENTAGE INCREASE IN NUMBERS OF CHILDREN REPORTED NATIONWIDE AS ABUSED AND NEGLECTED: 1981-1985

Numbers of Children



**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

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

**REQUEST**

Bill/Resolution No. : SSH471  
 Title : "An Act Relating to the Abuse  
 and Neglect of Children"  
 Sponsor : Rep. Peter Goll & Rep. Gruenberg  
 Requestor : H Judiciary  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : Council on Domestic Violence  
 and Sexual Assault  
 Components : \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by : Barbara Miklos, Exec. Dir.  
 Division : Council on DV & SA

Phone : 465-4356  
 Date : 1/31/86

Approved by Commissioner : *hms*  
 Agency : Dept. of Public Safety

Date : 2/3/86

Distribution (by Agency preparing fiscal note) :

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

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SSHB 471

January 31, 1986

Support

HB 471 - "An Act relating to the abuse and neglect of children."


The Council on Domestic Violence and Sexual Assault supports HB 471 which adds a new section requiring that reports of harm to children caused by persons not responsible for the child's welfare be reported to law enforcement agencies. Existing legislation requires only reporting child abuse committed by persons responsible for a child's welfare.

Recent cases in Alaska and national studies show that non-familial child sexual assault is a major problem. In a study of child sexual abuse conducted by Dr. Anne Russell, an expert on adult and child sexual assault, 11 percent of the perpetrators were total strangers, 29 percent were relatives and 60 percent were known but unrelated to the victim.

It has been assumed that people accept their responsibility to report crimes against children to law enforcement agencies. However, this has not always proven to be the case. People may be reluctant to become involved with the criminal justice system because of the time required for the process. This reluctance is exacerbated in small communities where the alleged perpetrator is a peer and possibly a friend. This legislation provides a needed incentive to assure reporting of all assaults against children.

In order to more fully guarantee protection of children, all suspicions of child abuse should be investigated so the abuse can be stopped and the child and her/his family can receive the necessary support and treatment to overcome the trauma.

A suggested change to be made in the bill is to make the language in the bill that refers to the "nearest law enforcement agency" consistent with the language in the existing statute 47.17.020(c), to make reports to "a peace officer".

  
Robert J. Sundberg

---

# ALASKA NETWORK

ON

# DOMESTIC VIOLENCE

AND

# SEXUAL ASSAULT

---

130 Seward, No. 501 • Juneau, Alaska 99801 • (907) 586-3650

---

Abused Women's Aid in Crisis (AWAIC);  
Advocates for Victims of Violence (AVV);  
Aiding Women in Abuse and Rape Emergencies (AWARE);  
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);  
Bering Sea Women's Group (BSWG);  
Cordova Women's Resource Center (CWRC); Emmonak Women's Shelter;  
Kodiak Women's Resource & Crisis Center (KWRCC); MEN, Inc.;  
Men's Support Network (MSN); Safe & Fear-Free Environment (SAFE);  
Sikans Against Family Violence (SAFV);  
Southwestern Alaska Council for the  
Prevention of Child Sexual Assault (SWACPSA);  
South Peninsula Women's Services (SPWS);  
Tundra Women's Coalition (TWC); Valley Women's Resource Center (VWRC);  
Women in Crisis Counseling & Assistance (WICCA);  
Women in Safe Home (WISH); Women's Resource & Crisis Center (WRCC)

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## POSITION PAPER: HB 471

The Alaska Network on Domestic Violence and Sexual Assault is a membership organization composed of 19 programs that provide domestic violence and sexual assault services throughout the state. We provide member programs with training, technical assistance and information concerning current issues in the field.

The Network supports House Bill 471. Statistics from the U.S. Dept. of Justice's National Symposium, Oct., 1984 (unpublished report), reveal that in 1984, 1 in 3 females and 1 in 4 males between the ages of 3 to 18 years had been sexually abused. 64 percent of these children were abused by non-family members. Most other studies indicate a significantly higher incidence of abuse outside of the family. Further research reports indicate that in 76 to 90 percent of all reported cases of child sexual abuse, the offender is either a relative or is known to the victim (Finkelhor, 1978; U.S. Dept. of Justice Symposium, 1984; Conte and Berliner, 1981). Taken together, the research infers that most reported offenses are committed by non-family members who are known to the children.

Many of the same factors that make it unlikely a child will report an incest violation also operate for a child who has been abused by someone they know. People sometimes find it difficult to accept this possibility and believe a child, a child is embarrassed and fears other repercussions. This can be especially true in Alaska's small villages and towns where many people have known each other for the better part of their lives.

The Network feels it is essentially sound public policy to clearly define child abuse as unacceptable behavior whether it occurs inside or outside of the family. We feel that this legislation moves us closer towards this goal by helping to ensure that cases of child abuse will be reported whether or not they occur within or outside of the family.

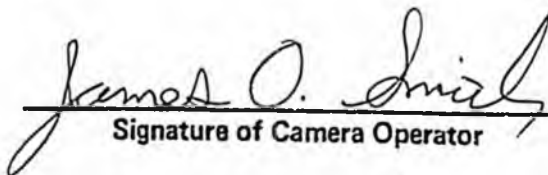
In fact, we believe that in many instances this legislation may make it easier for required reporters to report. These reporters will no longer be put in the position of "accusing the family" since they will be required to report suspected abuse irregardless of whether it occurred inside or outside of the family. It will be up to others who work in the field to make a determination as to who the abuser might be.

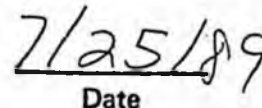


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Signature of Camera Operator

  
Date

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**HOUSE  
COMMITTEE REPORT**

Date referred: 1/14/86

FURTHER REFERRALS: JUDICIARY

DATE: February 11, 1986

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee has considered HB 473

"An Act relating to providing alcohol to persons under 21 years of age."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with \_\_\_\_\_  same title
- \_\_\_\_\_  new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

*Walter Humberg*  
*John ...*  
*George ...*  
*Robin ...*  
*David ...*  
*...*

SIGNING OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Walter Humberg* Co-Chairman  
*...* Chairman  
*...* Co-Chairman

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : HB 473  
 Title : Providing alcohol to persons  
under 21 years of age

Sponsor : Rep. Taylor  
 Requestor : House Hess Committee  
 Date of Request : 2/14/86

**FISCAL DETAIL**

Agency Affected : Dept. of Revenue  
 BRU : Alcoholic Beverage Control Board

Components : \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

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

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by : Patrick L. Sharrock, Director Phone : 277-8638  
 Division : Alcoholic Beverage Control Board Date : 2/14/86 2/19/86

Approved by Commissioner : Mary A. Nordmark Date : 2/20/86  
 Agency : Department of Revenue

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)

Introduced: 1/14/86  
Referred: Health, Education &  
Social Services and Judiciary

1 IN THE HOUSE

BY TAYLOR BY REQUEST

2

HOUSE BILL NO. 473

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to providing alcohol to persons  
7 under 21 years of age."

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

9 \* Section 1. AS 04.16.051(b) is amended to read:

10 (b) This section does not prohibit the furnishing of an alco-  
11 holic beverage

12 (1) by a parent to their [HIS] child, by a guardian to a  
13 [HIS] ward, or by a spouse to their [HIS OR HER] legal spouse if the  
14 furnishing occurs in a private residence and if the person under 21  
15 years of age who receives the alcoholic beverage does not leave the  
16 residence while under the influence of alcohol [OFF LICENSED  
17 PREMISES]; or

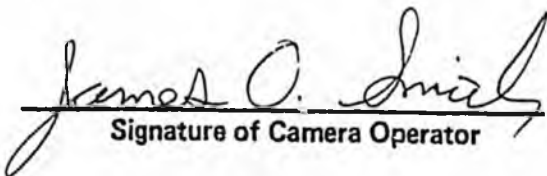
18 (2) by a licensed physician or nurse to a patient in the  
19 course of administering medical treatment.

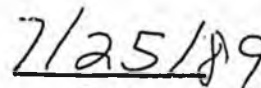


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Date

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4 7 4

House Bill 474- An act relating to volunteer guardians ad litem in the Office of Public Advocacy  
Overview prepared by Rep. John Sund's office

#### SECTIONAL ANALYSIS

Section 1, subsection (a)(6) requires that the Office of Public Advocacy set up a program to train and supervise volunteers to serve as guardians ad litem.

Subsection (b)(3) allows the Office of Public Advocacy to solicit funds from local governments and private individuals.

Section 2 limits the civil liability of volunteer guardians, while participating within the program, to acts of gross negligence.

#### HISTORY

A guardian ad litem is appointed, at the discretion of a judge, to represent a child's best interests in court proceedings. An attorney guardian ad litem within the Office of Public Advocacy may be appointed as guardian when no appropriate family member or friend is available, as in the case of a neglected or abused child.

Section 1, subsection (a)(6): The Office of Public Advocacy began a volunteer guardian program in August 1985, as a pilot project, because of the overwhelming need for additional guardians ad litem and the lack of available staff time. (each attorney guardian ad litem carries a caseload of between 80 and 100 people) As of 12/20/85, five volunteers were under the supervision of an attorney guardian from the Office of Public Advocacy.

The volunteers have been able to provide more personal attention to the everyday requirements of their wards, such as coordinating meetings and conferring with social workers. This has allowed the staff additional time to perform the more specialized duties required of guardian ad litem.

Section 1, subsection (b)(3): Offers of monetary assistance for training and materials have been forthcoming from the Alaska Bar Association, the City of Anchorage and others. Because of this potential for funding from sources other than state government, the subsection was included in the bill.

Section 2: The National Court Appointed Special Advocate Association suggested that this section be added. It is in line with the statutes of Delaware, Florida, Indiana and North Carolina. Volunteer guardian programs in states without legislative protection are finding difficulty in obtaining affordable liability insurance.

# Court Appointed Special Advocate Association

909 N.E. 43rd, Suite 202; Seattle, Washington 98105 (206)547-1059

December 5, 1985

DEC 10 1985

Philip J. McCarthy, Jr.  
Volunteer GAL Program  
Office of Public Advocacy  
900 West 5th Avenue, Suite 525  
Anchorage, AK 99501

Dear Mr. McCarthy:

Concerns about legal liability for CASA Programs are beginning to surface. Programs are finding the cost of insuring their programs to be exorbitant. Others have been denied coverage because no statistics exist for underwriters to determine the risk involved. Therefore, many programs either suffer from high premiums or are taking a risk by going without insurance.

The following analysis was done to aid Program Directors and Advisory Boards in deciding whether it is feasible to insure their programs, and how to go about doing so. In some states, CASAs appointed by judges become agents of the court covered by local or state law. Section I, Program Coverage, shows how state and local laws either eliminate or limit the legal liability of CASAs and CASA Programs. Keep in mind that a general liability policy covers only the organization named, and executive officers and directors if the organization is incorporated. Employees, volunteers and other "additional insureds" must be specifically endorsed before they are covered. Special "Directors and Officers Errors and Omissions" insurance is also available to protect individual board members and directors for making an allegedly damaging decision, or for failing to make a prudent decision. Section I also explains about workers' compensation coverage.

If a program finds no relief, or only limited relief, under Section I, Section II explains how to determine whether a separate volunteer policy is advisable by assessing the legal liability of the individual program. Section II includes companies which offer special volunteer insurance, the cost, coverage, liability limit and area of business. This is intended as a reference list only, and should not be construed as a recommendation of the companies listed.

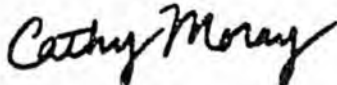
December 5, 1985

Page 2

Lastly, Section III offers some "Risk Management" guidelines which could help in reducing risks, or at least premiums.

In order to better facilitate information on this issue, we ask that you complete the attached questionnaire and return it to the Association in the envelope provided by December 20. To our knowledge, no lawsuit has been filed against a CASA Program in the past eight years. So if you are without coverage, do not panic! Assess your status, your needs, and your options. The Association will gladly provide your program or your insurance carrier with the results of this survey should you desire more information. Please do not hesitate to call or write if you have any questions on the enclosed or if we can be of assistance.

Sincerely,



Cathy Moray, J.D.  
Research Assistant

CJM/CM  
Enclosures

## LIABILITY ISSUES FOR CASA PROGRAMS

### I. PROGRAM COVERAGE

#### A. State Law:

1. Delaware. Title 31. Chapter 36. Court Appointed Special Advocate  
§ 3612 CIVIL LIABILITY OF PARTICIPANTS IN THE COURT APPOINTED  
SPECIAL ADVOCATE PROGRAM  
The Director, Coordinators, Attorneys, and Court  
Appointed Special Advocates participating in the Court  
Appointed Special Advocate Program shall not be  
civilly liable for acts or omissions committed in  
connection with duties which are part of the program  
if they have acted in good faith and are not guilty  
of gross negligence.
2. Florida. § 415.508(1) . . . Any person participating in a  
civil or criminal judicial proceeding resulting from  
such appointment shall be presumed prima facie to be  
acting in good faith and in so doing shall be immune  
from any liability, civil or criminal, that otherwise  
might be incurred or imposed.
3. Indiana. IC 31-6-3-4(4)(f) Except for gross misconduct, if  
the guardian ad litem or court appointed special  
advocate performs (his) duties in good faith, (he) is  
immune from any civil liability that may occur as a  
result of (his) performance.
4. North Carolina. § 7A-493. Civil liability of volunteers.  
Any volunteer participating in a judicial proceeding  
pursuant to the program authorized by this Article  
shall not be civilly liable for acts or omissions  
committed in connection with the proceeding if (he)  
acted in good faith and was not guilty of gross  
negligence. (1983, c. 761, s. 160.)

#### B. Local/County Ordinances:

According to a legal opinion given by Norm Maleng, Prosecuting Attorney, January 13, 1981, the volunteer Guardian Ad Litem in King County, Washington, will be covered by the King County Risk Management Ordinance, KCC 4.12.090, if the activities which give rise to the claim are within the scope of their official county duties. Since the court appoints the volunteers, the volunteers become agents of the court. The GAL is in no different position than any other county employee or official.

#### C. Workers' Compensation Coverage:

The workers' compensation laws of most states do not include volunteers under the definition of employee. Many states do, however, allow employers to include volunteers by special endorsement. In Washington, volunteers can be added by action of the Board of the Corporation, but coverage is limited to medical benefits.

D. Additional Insureds in an Existing Policy:

Some general liability carriers will extend their policy to cover the volunteers as insureds, if they are requested to do so. They will issue a specific endorsement, usually known as "Volunteers As Insureds". The named insured endorsement may also be negotiated to include employees and funding sources.

II. ASSESSING LEGAL LIABILITY

A. Factors in determining whether to provide insurance coverage for your volunteers:

1. Is there a clear risk present, either to the volunteer or other individuals, which would justify the expenditure for insurance?
2. Could the risk be better handled by other methods (i.e. better selection of volunteers, improved training and supervision) that would reduce it to a level where insurance would not be necessary?
3. Is the volunteer already adequately protected by personal insurance coverage, existing law or court appointment?
4. Is the program a "public agency" which would come under a Tort Claims Act?

B. Potential Legal Liability Areas:

1. Unfair Employment Practices
  - a. Discrimination
  - b. Wrongful Employee Dismissal
2. Acts beyond granted authority.
3. Failure to manage money properly; financial decline.
4. Insufficient administration or supervision resulting in losses.
5. Waste of organizational assets.
6. Continual absence from board meetings; negligent attention.
7. False or misleading reports.
8. Failure to verify facts in official documents.
9. Causing the organization to incur unnecessary tax liabilities.
10. Failure to deliver services or make prudent decisions.
11. Libel, slander, defamation of character, or invasion of privacy.

C. Who can sue and collect under an insurance policy (assuming negligence is proven):

1. Children, Parents, Guardians
2. Guests
3. Members of the General Public
4. Volunteers, Employees

D. Special Volunteer Liability Insurance:

1. Volunteer Insurance Service Association, Inc.  
Corporate Insurance Management  
4200 Wisconsin Ave., N.W.  
Washington, D.C.  
Toll Free Number 1-800-468-4200  
In Alaska or Hawaii: Phone (202) 244-5678

Provides Accident Insurance (85¢ per volunteer/\$10,000 medical & \$2500 life liability limits), Personal Liability Insurance (50¢ per volunteer/\$1,000,000 liability limit, \$45 minimum premium), and Excess Automobile Liability Insurance (\$3 per volunteer/\$500,000 liability limit). Other programs include a Comprehensive Directors & Officers/Professional Liability (Errors & Omissions) Insurance with a 3/year minimum premium of \$1250 and a \$1,000,000 liability limit.

Service Area: United States

2. California Planners & Consultants, Inc.

Volunteer Insurance Plan

P.O. Box 1183

559 N. San Pedro

San Jose, CA 95108-1183

(408) 297-0755

Provides Accident Insurance (85¢ per volunteer/\$10,000 medical & \$2500 life liability limits), Personal Liability Insurance (50¢ per volunteer/\$1,000,000 liability limit, \$45 minimum premium), and Excess Automobile Liability Insurance (\$3 per volunteer/\$500,000 liability limit).

Service Area: California, Washington & Hawaii

3. Huntington T. Block Insurance

2101 L Street N.W.

Washington, D.C. 20037

Toll Free Number 1-800-424-8830

(202) 223-0673

Provides Legal Liability Insurance for United Way agencies only. Any amount of United Way funds makes a program eligible. Premiums are based on the program's annual revenues, with liability limits ranging from \$1,000,000 to \$10,000,000.

Service Area: United States

### III. RISK MANAGEMENT

#### A. Risk Management for Volunteer Programs:

1. Identify risks associated with GAL/CASA duties to the volunteer, the child and to third parties.
2. Write volunteer job descriptions matched to the complexity of the role of GAL/CASA which includes special knowledge or skills, physical requirements and the capability to accept responsibility.
3. Screen volunteers for the above requirements.
4. Train volunteers in the duties to be performed, acts not to be performed, the risks involved, ways to minimize the risks, in record keeping, confidentiality and ethics.
5. Train supervisors to make sure the above is being done.

#### B. Risk Management Techniques to Reduce your Claim Threat & Premiums:

1. Regularly perform safety inspections of your premises.
2. Establish safety guidelines for handling situations common to GAL/CASA Programs.

3. Provide safety training to your employees and volunteers.
4. Report all incidents which might give rise to suit to your insurance broker and document carefully the circumstances.
5. Review each accident that occurs to ascertain what changes should be made in your procedures to avoid future similar claims.
6. Keep your own statistics on claims, premiums, etc. This will help you to obtain premium discounts in future years.

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HB 474- Volunteer Guardian Ad Litem Program

Letters of Support for the program are from:

Deborah O'Regan, Executive Director  
Alaska Bar Association

Frank Dalley, Regional Social Services Manager  
Division of Family and Youth Services

Dana Fabe, Public Defender

Veronica Duke, Chief of Clinical Social Work Services  
Division of Mental Health and Developmental Disabilities

Elizabeth Sheley, Assistant District Attorney

Ann Stockman, Director of Crisis Services  
S.T.A.R.

Gordon Lantrip, Director  
Alaska Baptist Family Services

Milli Andreini, Executive Director  
The Center for Children and Parents

William D. Hitchcock  
Master, Childrens Court, Third Judicial District

Pamela Kirk and Phillip Kaufman  
Human Relations Center

Corrine Radergraham, Coordinator  
Close Encounters and Alaska Permanency Planning Task Force

Douglas J. Serdahely, Presiding Judge  
Third Judicial District

ALASKA BAR  
ASSOCIATION

JAN 10 1986

December 16, 1985

John Reese, Co-Chair  
Volunteer Guardian ad litem Program  
Alaska Bar Association  
P. O. Box 100279  
Anchorage, AK 99510

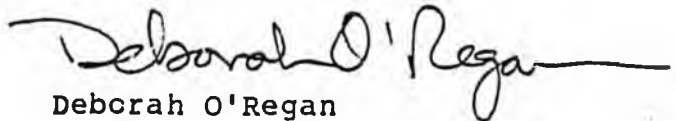
Dear Mr. Reese:

I am writing in support of the committee's efforts to develop a volunteer guardian ad litem program.

Such a program would provide much needed representation for children in our community. The utilization of trained volunteers will make it possible to adequately represent children without substantially increased state funding.

I endorse the enabling legislation which would establish a volunteer guardian ad litem program within the Office of Public Advocacy.

Sincerely,



Deborah O'Regan  
Executive Director

vu

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH & SOCIAL SERVICES

DIVISION OF FAMILY & YOUTH SERVICES

REGIONAL OFFICE  
3601 C STREET #520  
POUCH 6333  
ANCHORAGE, ALASKA 99502-0333  
PHONE: (907) 551-4240

November 30, 1985

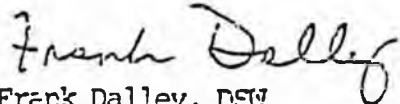
Dorcas Hardy  
Assistant Secretary  
Department of Health & Human Services  
Washington, D.C. 20201

Dear Ms. Hardy:

The State of Alaska has, over the past several years, experienced a dramatic increase in the incidence of reported child abuse and neglect. There are indicators which point to a continuation of this trend as the economy of Alaska begins a downward spiral. One consequence of this phenomenon is that sufficient resources are not available to properly advocate for this rapidly increasing target population.

As a member of the Interagency Task Force charged with responsibility for developing and implementing a volunteer guardian ad litem program in the Anchorage area, I have become acutely aware of the pressing need to expand this program. I strongly urge favorable consideration of Alaska's proposal. These funds will be used to recruit and train volunteers to serve as court appointed special advocates for children and youth throughout the state.

Sincerely,



Frank Dalley, DSW  
Regional Social Services Manager

FD/tn

BILL SHEFFIELD, GOVERNOR

**PUBLIC DEFENDER AGENCY**

900 W. 5TH AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 279-7541

M E M O R A N D U M

DATE: December 20, 1985

TO: John Reese, Co-Chair  
Volunteer Guardian ad litem Program .

Jay McCarthy  
Office of Public Advocacy

FROM: *Dana Fabe*  
Dana Fabe  
Public Defender



I am writing to add my support for proposed legislation establishing a volunteer guardian ad litem program within the Office of Public Advocacy. This program would save money for the State of Alaska by avoiding the necessity of adding guardian ad litem positions to meet rising caseloads. Careful recruitment and training of qualified community volunteers should increase the level of service to children needing guardians ad litem to represent their best interests.

I fully support establishment of a volunteer guardian ad litem program within the Office of Public Advocacy. Please let me know if there is anything I can do to aid passage of enabling legislation for such a program.

BILL SHEFFIELD, GOVERNOR

**DEPT. OF HEALTH AND SOCIAL SERVICES**

DIVISION OF MENTAL HEALTH & DEVELOPMENTAL DISABILITIES  
ALASKA PSYCHIATRIC INSTITUTE

2900 PROVIDENCE AVENUE  
ANCHORAGE, ALASKA 99508-4677

(907) 561-1633

December 20, 1985

John Reese, Co-Chairman  
Volunteer Guardian Ad Litem Program  
Alaska Bar Association  
Family Law Section  
P.O. Box 100279  
Anchorage, Alaska 99510



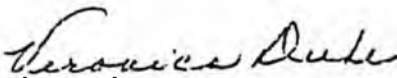
Dear Mr. Reese:

Dr. Bruce Livingstone, our Acting Medical Director, and I have reviewed your letter of December 3, 1985.

We would both endorse the creation of a Volunteer Guardian Ad Litem Program in the community. We would see them as being persons who would be most useful to our patients. Please feel free to contact us if we can in any way help train your volunteers.

We look forward to working with you when this new program is available.

Sincerely,

  
Veronica Duke, ACSW  
Chief, Clinical Social Work Services

VD/eb EB4 1781

d. 12/20/85  
t. 12/20/85

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 WEST 4th AVENUE, SUITE 520  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 277-8622

DRAWER 1180  
KENAI, ALASKA 99611  
PHONE: (907) 283-3131

326 CENTER AVE, 2ND FLOOR  
KODIAK, ALASKA 99615  
PHONE: (907) 486-5744

P.O. BOX 1070  
PALMER, ALASKA 99645  
PHONE: (907) 745-5027

P.O. BOX 671  
VALDEZ, ALASKA 99686  
PHONE: (907) 835-2462

**DEPARTMENT OF LAW**

CRIMINAL DIVISION/THIRD JUDICIAL DISTRICT  
OFFICE OF THE DISTRICT ATTORNEY

December 17, 1985

Mr. John Reese, Co-Chair  
Volunter Guardian ad litem Program  
Alaska Bar Association  
P.O. Box 100279  
Anchorage, Alaska 99510

Dear Mr. Reese:

I endorse the proposal to establish a volunteer guardian ad litem program. I am the prosecutor who handles most of the child sexual abuse cases in Anchorage and have done so for the last three years.

Sexually abused children need an effective advocate to prevent damage to them from their involvement with the criminal justice system. In the past our prosecutors were able to spend much more time with victims to help ease their way through the system. Due to budget cuts and the increasing number of these cases we can no longer provide these services.

I believe a volunteer guardian ad litem would be very useful in child sexual abuse cases to fill the gap caused by our lack of resources. Advocating for the child's best interest takes a lot of time. I see no need for that advocate to be an attorney. In fact, there is an advantage to the guardian being outside the system because the guardian can encourage the system better to act in the best interest of the child. Lucy Berliner of the Harborview Sexual Assault Center in Seattle, who is a nationally known expert on child sexual abuse, endorses this concept of each sexually abused child having a non attorney advocate like the ones proposed in the volunteer ad litem program.

Very truly yours,

HAROLD M. BROWN  
ATTORNEY GENERAL

VICTOR C. KRUMM  
DISTRICT ATTORNEY

*Elizabeth H. Sheley*  
Elizabeth H. Sheley  
Assistant District Attorney

DEC 30 1985



Bus. 276-7279  
24-hr.  
Crisis 276-RAPE

December 20, 1985



Mr. John Reese  
Volunteer Guardian ad litem Program  
P.O. Box 100279  
Anchorage, Alaska 99510

Dear John:

On behalf of STAR I am writing to express our support of the proposed Volunteer Guardian ad litem Program. We are well aware of the need for such a program. Some of our clients have recently worked closely with staff from the Office of Public Advocacy. Additionally, I have visited this agency and am aware of the high quality of work that the staff perform.

As with any small agency it is important to maximize the use of volunteers. It sounds like your program will provide services to clients who could otherwise have been left unserved, and these services will be provided at a low cost. Children who are victims of sexual assault are unfortunately often revictimized by the length of and complexities in the court process. Further, children may not have the kind of support they deserve to receive from their parents. In the interest of serving and protecting the interests of children a program such as yours should provide a kind of advocacy that is the right of any victim.

Please feel free to contact me at STAR if we can be of assistance.

Sincerely,

Ann W. Stockman, MSW  
Director of Crisis Services

AWS/sjj

STANDING TOGETHER AGAINST RAPE  
PO BOX 103356 ANCHORAGE, ALASKA 99510



A United Way Agency



# Alaska Baptist Family Services

1600 O'Malley Rd. • Anchorage, Ak. 99515 • Phone (907) 349-2222

December 5, 1985

John Reese, Co-Chair  
Volunteer Guardian ad litem Program  
AK BAR ASSOCIATION  
P O Box 100279  
City 99510



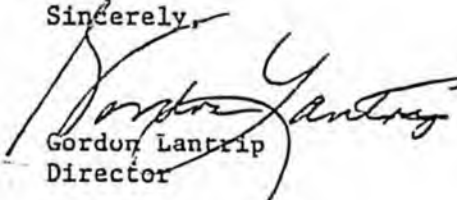
Dear Mr. Reese:

Thank you for your recent letter re the development of a Volunteer Guardian ad litem program here in Alaska.

It has been my experience over these past 25 years in child care work that better things happened to youth who had a guardian ad litem working in their behalf. I know the financial cost of such a program for every child would be staggering and so I think a volunteer program that utilized well chosen and trained citizens has great potential.

I heartily endorse the development of enabling legislation to begin such a program.

Sincerely,

  
Gordon Lantrip  
Director



# THE CENTER FOR CHILDREN AND PARENTS

December 13, 1985

John Reese, Co-Chair  
Volunteer Guardian ad litem Program  
Alaska Bar Association  
P.O. Box 100279  
Anchorage, Alaska 99510



Dear Mr. Reese:

I am pleased to submit a letter of support for your efforts to establish a volunteer guardian ad litem program. Such a service will provide a needed adjunct to existing guardian ad litem services.

The use of carefully selected and well trained volunteers in child welfare matters has proven to be very effective. The Court Appointed Special Advocate Program (CASA) is well respected in communities in the lower forty-eight. The continued increase of child abuse cases and the number of divorces in the Anchorage area are impacting the court system as well as investigation and rehabilitation resources. At a time when financial resources are declining we must find responsible, yet creative ways to serve families in need. The volunteer guardian ad litem is, indeed, a responsible solution to the problem of the increased number of children requiring representation.

I wish you well in the development of the volunteer guardian ad litem program. I am happy to support your efforts and the enabling legislation which will allow you to proceed.

Sincerely,

Milli Andreini, M.S.W.  
Executive Director

MA/wst



Southcentral Alaska Chapter -  
National Committee for  
Prevention of Child Abuse

808 E STREET, SUITE 200, ANCHORAGE, ALASKA 99501 (907) 276-4994  
Programs of the Anchorage Child Abuse Board, Inc.





## Trial Courts

State of Alaska

THIRD JUDICIAL DISTRICT

303 K STREET

ANCHORAGE, ALASKA 99501

December 19, 1985

WILLIAM D. HITCHCOCK  
Master, Trial Courts

John Reese, Co-Chairman  
Volunteer Guardian ad Litem Program  
211 H Street  
Anchorage, Alaska 99501

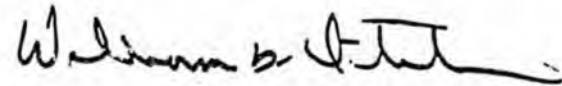
Dear Mr. Reese,

I am writing this letter in support of the efforts being made to establish a full-time volunteer guardian ad litem program within the Office of Public Advocacy. As Children's Court Master here in Anchorage for the past seven years, I have seen firsthand the important role which the guardian ad litem plays in children's proceedings. Case investigation and assessment are the most important and often the most time consuming aspects of this job. Unfortunately, the resources of the state within any agency are often strained to the maximum just dealing with the voluminous caseloads. This is where volunteers can play a vital role in being able to devote the time needed to complete impartial investigations and more adequately represent the best interests of the children.

As a member of the National Council of Juvenile and Family Court Judges, I have attended various national conferences at which presentations have been made by volunteer programs in other states. It is my impression that these programs have been extremely successful and have overwhelmingly won the support of the bench and the bar. I think it is particularly unfortunate that we here in Alaska have not done more to tap the resources of our communities and achieve more citizen involvement in areas such as child welfare. A program such as this one would do just that, and from a cost efficient standpoint would materially save the expense of adding more paid staff and attorneys to public agencies.

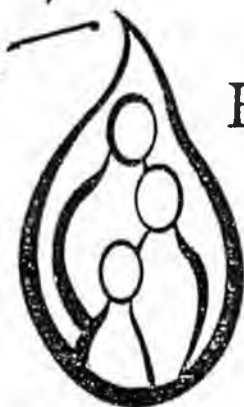
It is also my distinct impression that no program outside that has been successful has been able to do so without competent administration. Recruitment, training and quality control monitoring of volunteers is an absolute prerequisite to success. Therefore, I urge the legislature to pass enabling legislation which would provide funds to secure an administrator for this program so that it may benefit not only Anchorage but eventually become a statewide program.

Sincerely,

A handwritten signature in dark ink, appearing to read "William D. Hitchcock". The signature is fluid and cursive, with a long horizontal stroke at the end.

William D. Hitchcock  
Master, Children's Court

WDH/ss



# Human Relations Center

421 E. 45th, Suite 1  
Anchorage, Alaska 99503-7348  
(907) 562-6677

Phillip Kaufman, M.S.  
Pamela Kirk, M.S.  
Dr. Patricia C. Patrick, M.D.  
Child Psychiatric Consultant  
Dr. Jim Harper, Ph.D.  
Psychological Consultant  
Dr. Janet Lindeman, Ph.D.  
Psychological Consultant

December 23, 1985

John Reese  
Co-chair of the Volunteer  
G.A.L. Program  
Family Alaska Bar Association  
Family Law Section  
P.O. Box 100279  
Anchorage, Alaska 99510

Re: Letter of Support

Dear Mr. Reese:

In response to your letter of December 3, 1985, asking for letters of support for the Office of Public Advocacy and the G.A.L. Program, the Human Relations Center is very much in support of the Office of Public Advocacy. Since most of the cases we work with have to do with child sexual abuse, it is extremely important that our child clients have a strong G.A.L. to protect their interests in these difficult situations. We would be supportive of any legislation that would guarantee more funding for the Office of Public Advocacy so that more G.A.L.'s could be hired. It is obvious that the guardians are so overworked at the present time that they are having difficulty providing high quality services to the children.

We also work with a number of cases where children have reported that they have been sexually abused by a parent during visitation. These cases often result in custody and visitation battles which are complicated by the child sexual abuse allegations. In such cases it is important for the safety of the children that supervised visitation be provided. D.F.Y.S. is not able, due to the time and case load constrictions, to provide such supervision for these children. If the volunteer G.A.L. Program could be expanded and supported, then these volunteers could provide some of the supervision that was necessary in our custody cases. Such supervised visitation is also often necessary in our child sexual abuse cases so that the children may maintain a relationship with the perpetrator yet remain safe.

In some child sexual abuse cases, we have mothers who are not supportive of their children and therefore, the children can not be left alone in visitation with a non-offending, non-supportive parent. These are another set of cases where the G.A.L.'s could provide much needed supervision so that the children maintain their mother/child bond with these non-supportive mothers.



We would give our support to any legislation that would: 1) increase the number of G.A.L.'s at the Office of Public Advocacy, 2) provide for funding to increase the volunteer G.A.L. Program, and 3) provide funding so that the volunteer G.A.L.'s could be trained to provide complete and safe supervision to children.

We highly support the Office of Public Advocacy and the volunteer G.A.L. Program. If we can be of further service providing support, please do not hesitate to contact this office.

Respectfully submitted,



Pamela Kirk, M.S.



Phil Kaufman, M.S.

PK:ln  
cc: Jay McCarthy

# Close Encounters

SOCIAL SERVICES CONSULTANTS  
P. O. BOX 6242 215 MAIN STREET 125 HECKMAN BUILDING KETCHIKAN, ALASKA 99901  
(907) 225-5460

CORRINE RADERGRAHAM, M.S.W

ALINE COLE BAROFF, O.T.R.

15 November 1985

Office of Public Advocacy  
900 W. 5th Avenue, Suite 525  
Anchorage, Alaska 99501

Dear Ms. Mead:

I am writing this letter in support of the Office of Public Advocacy's grant request from the Coordinated Discretionary Funds Program/Human Development Services.

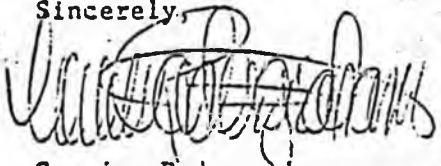
The Alaska Permanency Planning Task Force which was organized by the National Council of Family and Juvenile Court Judges in response to P.L. 96-272 has been actively involved with a consortium of agencies in Alaska to further permanency planning for children in foster care. Volunteer Guardian Ad Litem programs are one part of our goal to provide permanent homes for all Alaska children.

The Alaska Permanency Planning Task Force consists of key members in the State Legislature, Court System, Social Services and private enterprise. As Coordinator, I sincerely hope that funds will be supplied to provide a training coordinator and training materials for the next three years, as training will be instrumental in assuring the success of the Volunteer Guardian Ad Litem legislation which is in the hands of our Legislators at this time.

I know that I may speak for all members of the Alaska Permanency Planning Task Force in supporting your proposal request. I wish you success.

If I can be of any further assistance now or in the future, please do not hesitate to contact me.

Sincerely,



Corrine Radergraham  
Coordinator  
Alaska Permanency Planning Task Force

cc: Judge Thomas E. Schulz, Task Force Chairman  
Task Force Members:  
Kathy Tibbles, DFYS SE Regional Manager  
Grace Kinney, SE Vice-President, Alaska Foster Parents Association  
State Supreme Court Justice Alan Compton  
State Senator Joe Josephson  
State Representative John Sund  
State Representative Robin Taylor  
Cecilia Kleinkauf, Associate Professor, Dept. of Social Work, U of A, Anchorage  
Lisa Weissler, A.A. to State Representative Sam Cotten



Superior Court  
State of Alaska  
THIRD JUDICIAL DISTRICT  
303 K Street  
Anchorage, Alaska 99501-2023

CHAMBERS OF  
DOUGLAS J. SERDAHELY  
Presiding Judge

November 20, 1985

Office of Public Advocacy  
900 West Fifth Avenue, Suite 525  
Anchorage, Alaska 99501

To Whom It May Concern:

Over the past six months a group of interested persons and agencies in the child welfare system have established the Anchorage Volunteer Guardian Ad Litem Project. The purpose of this endeavor is to provide dedicated community volunteers who, under the auspices of the Alaska Office of Public Advocacy, will provide representation for abused and neglected children in court proceedings.

The Alaska Court System strongly supports your program. We believe that augmenting state resources for guardian ad litem representation through volunteers will materially improve the quality of representation given abused and neglected children. However, emphasis must be placed on quality. Integral to the success of any volunteer program is the ability to recruit, train and monitor the work of these volunteers. Approval of the O.P.A. grant request from the Coordinated Discretionary Funds Program/-Human Development Services would be a tremendous boost for this fledgling program and could be instrumental in spelling the difference between success and failure.

Office of Public Advocacy  
November 20, 1985  
Page 2

We urge your favorable consideration of this application.

Very truly yours,

  
Donald J. Sardanelly

DJS:lge

Introduced: 1/15/86  
Referred: Health, Education &  
Social Services, Judiciary and  
Finance

BY SUND, GRUENBERG, COTTEN,  
GOLL AND TAYLOR

1 IN THE HOUSE

2

HOUSE BILL NO. 474

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to volunteer guardians ad litem in  
7 the Office of Public Advocacy."

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

9 \* Section 1. AS 44.21.410 is amended to read:

10 Sec. 44.21.410. POWERS AND DUTIES OF PUBLIC ADVOCACY OFFICE.

11 (a) The office of public advocacy shall

12 (1) perform the duties of the public guardian under AS 13.-  
13 26.360 - 13.26.410;

14 (2) provide visitors and experts in guardianship proceed-  
15 ings under AS 13.26.131;

16 (3) provide guardian ad litem services to children in child  
17 protection actions under AS 47.17.030(e) and to wards and respondents  
18 in guardianship proceedings who will suffer financial hardship or  
19 become dependent upon a government agency or a private person or  
20 agency if the services are not provided at state expense under AS 13.-  
21 26.112;

22 (4) provide legal representation in guardianship proceed-  
23 ings to respondents who are financially unable to employ attorneys  
24 under AS 13.26.106(b), to indigent parties in cases involving child  
25 custody in which the opposing party is represented by counsel provided  
26 by a public agency, and to indigent parents or guardians of a minor  
27 respondent in a commitment proceeding concerning the minor under  
28 AS 47.30.775;

29 (5) provide legal representation and guardian ad litem

1 services under AS 25.24.310; in cases arising under the Uniform  
2 Interstate Compact on Juveniles (AS 47.25); in cases involving peti-  
3 tions to adopt a minor under AS 25.23.100(j); in cases involving  
4 petitions to remove the disabilities of a minor under AS 09.55.590; in  
5 children's proceedings under AS 47.10.050(a); and in cases involving  
6 indigent persons who are entitled to representation under AS 18.85.100  
7 and who cannot be represented by the public defender agency because of  
8 a conflict of interests;

9 (6) develop and coordinate a program to recruit, select,  
10 train, assign, and supervise volunteer guardians ad litem from local  
11 communities to aid in delivering services in cases in which the office  
12 of public advocacy is appointed as guardian ad litem.

13 (b) The commissioner of administration may

14 (1) adopt regulations that the commissioner considers  
15 necessary to implement AS 44.21.400 - 44.21.440;

16 (2) report on the operation of the office of public advo-  
17 cacy when requested by the governor or legislature or when required by  
18 law;

19 (3) solicit and accept grants of funds from the federal  
20 government, local governments, private individuals, and from private  
21 foundations, and allocate or restrict the use of those funds as re-  
22 quired by the grantor.

23 \* S.c. 2. AS 44.21 is amended by adding a new section to read:

24 Sec. 44.21.450. CIVIL LIABILITY OF VOLUNTEER GUARDIANS. A  
25 volunteer guardian ad litem under the supervision of the office of  
26 public advocacy may not be held civilly liable for acts or omissions  
27 during the good faith performance of duties as a guardian unless the  
28 volunteer was guilty of gross negligence.

POSITION PAPER

HOUSE BILL NO. 474

For an Act entitled: "An Act relating to volunteer guardians ad litem in the Office of Public Advocacy."

The purpose of this bill is to amend AS 44.21.410 to the Office of Public Advocacy to develop and coordinate a program to recruit, select, train, assign, and supervise volunteer guardians ad litem from local communities to aid in delivering services in cases in which the Office of Public Advocacy is appointed as guardian ad litem.

The provision of a guardian ad litem is widely supported by the division as an essential means of ensuring the protection of abused or neglected children. The division's policy states that if the court finds probable cause and orders the child committed to the department for temporary placement, the worker shall request the appointment of a guardian ad litem to represent the child in future proceedings in accordance with AS 47.17.030(e) which states that "in all actions taken by the Department or a Health and Social Services agency of a local government under this chapter that result in a judicial proceeding the child shall be represented by a guardian ad litem in that proceeding."

The court is given authority by statute to appoint an attorney or a guardian ad litem for the child in a proceeding which is concerned with the child's custody, support, visitation or in any other legal proceedings involving his welfare. A guardian ad litem appointed pursuant to the Alaska Statutes is an advocate for the best interests of the child, with not only the power but the responsibility to represent the child zealously and to the best of his ability. While the child's attorney advocates the child's wishes, these are not always in his best interest. In 1974, Congress enacted the "Child Abuse Prevention and Treatment Act". According to the Act, the guardian ad litem was to be more than a simple advocate for the child, but rather a guardian to protect the child's long range interests.

Because the duties of a guardian ad litem are varied and numerous, it is important that the guardians ad litem receive appropriate training in their roles, duties, and responsibilities. It is important to maintain an adequate pool of trained guardians ad litem to meet children's needs. The division strongly believes that a trained, knowledgeable pool of guardians ad litem would assist the division to ensure that children receive appropriate services and that the case plan for each child is

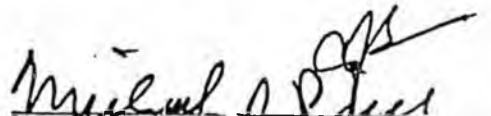
**POSITION PAPER/Department of Health & Social Services**

Position Paper  
House Bill 474  
Page 2

being appropriately administered. The division will offer technical assistance and coordination in any training program developed by the Office of Public Advocacy.


The department strongly supports this bill.

RECOMMENDED:

  
Michael L. Price, Director  
Division of Family  
and Youth Services

DATE: February 4, 1986

APPROVED:

  
John R. Pugh, Commissioner  
Department of Health  
and Social Services

DATE: 2/5/86

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : HB 474  
 Title : An Act relating to volunteer guardians ad litem  
 Sponsor : Sund, Gruenberg, et al  
 Requestor : \_\_\_\_\_  
 Date of Request : 2/3/86

**FISCAL DETAIL**

Agency Affected : Health & Social Services  
 BRU : Social Services  
Youth Services  
 Component : \_\_\_\_\_

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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**FUNDING : (Thousands of Dollars)**

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

**POSITIONS :**

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

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

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 Division : Family & Youth Services

Phone : 465-3170  
 Date : February 4, 1986 *gcc*

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

Date : 2/15/86

Distribution (by Agency preparing fiscal note) :

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