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see p. 21 & 22 - suggestions

file SB 21
Good resource.

PREVENTING SEXUAL ABUSE IN DAY CARE PROGRAMS

National Program Inspection



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Program inspections are short-term studies of HHS programs. They are not designed to be statistically valid research studies, compliance reviews, audits, program monitoring activities, or traditional program evaluations. Rather, program inspections consist of gathering both qualitative information and quantitative data. Program inspection results are meant to be used internally by Department managers as an additional source of information.

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INTRODUCTION

A challenging by-product of the changing composition of America's workforce is the increasing need for day care. In 1980, there were 19.6 million children under 6, and 8.7 million of them had mothers who worked outside the home. By 1990, these numbers will increase to 23 million and 12 million respectively.¹ There are more than 11 million employed mothers with children between 6 and 18. It is projected that by 1990, the number of 6 to 9-year-olds alone will total 15 million. Traditionally children's primary caretakers, employed mothers must turn to others for child care.

Day care is needed for children of all ages, but is absolutely necessary the younger the children are. An estimated 2 to 7 million school-aged children are left alone after school each day.² A 1982 study shows that 36% of mothers working full time outside the home had their 3 and 4-year-olds in the care of a relative, 32% placed these preschoolers in day care and nursery schools, and 18% placed their children in nonrelative family home settings.³

Within recent months, the tragedy of child sexual abuse in day care settings has garnered public attention. The problem is being discussed by parents, teachers, physicians, therapists, day care providers, law enforcement officials and lawmakers. Within the public forum, Congress took action by enacting P.L. 98-473, which provides supplementary funding to the Social Services Block Grant program for training, including prevention of child abuse in day care settings. In order to retain all of these training dollars, states must implement by September 30, 1985, procedures to screen specified child care personnel through employment history, background and nationwide criminal record checks. In addition, Congress required the Department of Health and Human Services to draft model licensing and registration standards for day care centers, group homes and family day care homes.

In October 1984, the Under Secretary requested the Inspector General to conduct a national program inspection on the issue of prevention of child sexual abuse in day care programs. Accordingly, staff from the Office of Inspector General and the Office of Human Development Services talked to 300 persons from 49 states and the District of Columbia. Participants in the study included state child protective staff and social workers, state licensing officials, city and county licensing officials, state criminal identification system directors, physicians, sexual assault therapists, child psychologists, district attorneys, police investigators, other experts in the field of child sexual abuse, day care providers, parents of children in day care, and special interest organizations.

¹ Families and Child Care: Improving the Options, A Report by the House Select Committee on Children, Youth and Families, September 1984, p. 12.

² Ibid. p. 23.

³ U.S. Bureau of Census, Current Population Reports, P-23, No. 129, "Child Care Arrangements of Working Mothers," June 1982.

MAJOR FINDINGS

1. Most known sexual abuse of children occurs in the home. There is a clear cycle of abuse begetting abuse: abusers who were abused as children, and mothers allowing their children to be sexually abused because their own fathers did it to them.
2. There is no profile or predictive model of child molesters. A number of professional studies, some funded by the National Institute of Mental Health, are underway on the identification and treatment of sex offenders.
3. Pedophiles can be attracted to day care programs, can abuse hundreds of children without being caught, are often not convicted after being arrested, and may have no criminal records even if they plead guilty to sexually abusing children. Experts estimate only 1% to 15% have any criminal records, and not necessarily for sex crimes.
4. Experts unanimously agree that education of parents, children, teachers, and day care providers to recognize, resist and report sexual abuse is the most effective method of preventing sexual abuse, both in the home and in child care programs. Employment screening techniques, including background and reference checks and criminal record screens, are seen as desirable but no guarantee that child molesters will be identified.
5. Twenty-four states currently screen some day care operators and/or staff against state criminal record files, but only California, Georgia and Minnesota have statutes for national criminal record screening of such employees. Only California and New York City have undertaken extensive fingerprinting of day care employees.
6. The only feasible approach to nationwide criminal record screening is the FBI fingerprint screen authorized under P.L. 92-544, which usually needs to be supplemented with a state criminal record screen. The cost of this dual screen is estimated at \$25 per person screened.
7. To screen all licensed day care providers and employees would require screening half a million persons in each of the next three years. This would exclude about 350,000 unlicensed providers and all volunteers, even though in many of the known abuse cases the perpetrators were not direct program employees, but volunteers, relatives of providers or peripheral employees.
8. Licensing and employment screens typically reveal 5-8% of the applicants with any criminal record whatsoever. For many reasons it is quite likely that only a minuscule number of sex abusers with criminal records would be detected by screening all day care employees.
9. There are substantial timing, technical and due process problems with implementing the screening provisions of P.L. 98-473.

RECOMMENDATIONS

EDUCATION

1. As a first priority in prevention of child sexual abuse, HHS should support education of parents, children, child care providers and staff in how to recognize, resist and report child sexual abuse.
2. HHS should promote more nationwide television educational spots and programs raising adult and child awareness of these methods.
3. HHS should prepare and distribute to appropriate child care grantees and to the public written information on this subject.
4. HHS should prepare and disseminate to appropriate grantees and other child care providers educational materials on how to (a) screen, check on and hire child care employees, (b) arrange facilities and staff, and (c) supervise staff so as to avoid child abuse in child care programs, as well as materials on how to handle reported abuse.

RESEARCH

HHS should continue to fund research into the profiling, detection and treatment of child molesters, and should assure that NIMH research currently underway finds practical application in effective public education materials.

SCREENING

1. HHS should require appropriate grantees to:
 - a. Explicitly advise every employee and volunteer that sexual activity with children is illegal.
 - b. Obtain from every employee and volunteer a signed declaration of prior criminal arrests, charges, and dispositions.
 - c. Conduct background and former employer reference checks for all prospective employees.
 - d. Obey state laws applicable to licensed or registered child care programs for screening or criminal record checks of current or potential employees.
 - e. Have a plan for responding to suspected or reported child abuse whether it occurs inside or outside the program.
2. The Secretary should publicize that criminal record screens of child care employees are desirable but are no guarantee of safety from child molesters (who seldom have criminal records) even in licensed centers; rather, that the best protection of children in child care depends on (a) education and alertness of parents, staff and children, (b) careful listening and observation by parents and staff, (c) child care participation and monitoring by parents, and (d) parent networks within programs.

3. HHS should carefully monitor the states' implementation of PL 98-473 to determine whether the intent of Congress, particularly with respect to education and screening to prevent child sex abuse, is carried out.
4. HHS should rapidly advise the states as to the nature and scope of child care staff screening which must be instituted by September 30, 1985, to retain full funding under P.L. 98-473.

COST IMPLICATIONS

We estimate that some of the \$12.5 million which Congress intended to be spent for preventive education might have to be recouped by HHS for technical state non-compliance with the screening requirements.

If all states were to comply literally with full FBI fingerprinting of all licensed day care employees, an estimated outlay from government or private funds of some \$37.5 million would be made over three years, the authorized funding period. At least half of this would be wasted on extremely low-yield fingerprint screening.

*"We've had only one day care case--a man who molested preschool boys. When asked how many boys he had assaulted during his life, he said, 'You don't have a piece of paper long enough to write down the names.' He is 28 and had no prior record."
An Assistant District Attorney*

BACKGROUND

The extent to which child sexual abuse occurs is unknown. Most of the national experts contacted in this study emphasized that no one really knows because most abusive incidents are not reported. Of those who ventured an estimate, the most common figures were 1 in 4 or 5 girls and 1 in 9 or 10 boys are sexually abused before age 18. Although the age of greatest risk is estimated to be between 8 and 13, children of all ages are assaulted. In one program treating assault victims, one-third of the children treated are under age 6.⁴ Professional research is increasing and offers heightened understanding of the problem's magnitude. Data gathered from the sexual offenders program at the Oregon State Hospital reveal that 35 men admitted responsibility for 20,276 separate sex crimes. Of these, 18 men admitted more than 5,000 assaults of 1,000 children. One offender alone admitted abusing 500 children before being caught.⁵ In an ongoing study of sex offenders, Dr. Judith Becker, Columbia University, found that 659 men admitted committing 280,000 sex crimes, of which the number committed against children is unknown. However, 58% of these offenders began their assaults while still in their teens. These figures are startling, but provide a glimpse at the extent to which a few offenders can abuse so many different persons.

Formal crime reports of abuse and clinical work with convicted abusers reveal that most sexual abusers are known by their victims. According to reported data on known abusers compiled by the American Humane Association (AHA), the federally-funded national reporting system on abuse, 95-98% of known abuse occurs in the home, by close relatives, family friends or neighbors--that is, by someone whom the child knows well and trusts. AHA statistics reveal that 77% of the known abusers were parents (fathers, stepfathers, foster fathers), 16% were other relatives (grandfathers, uncles, cousins, brothers), and 6% were others (including both strangers and persons known by the child). Although most known data indicates that men are the primary perpetrators, researchers and clinical therapists are now learning that there are more female perpetrators than ever realized. Some experts estimate that women may comprise as high as 20-30% of abusers.

Although there are problems about using such statistics, there is common agreement among the experts that much of the abuse goes unreported. In addition, most research done to date tells us more about intrafamilial abuse than it does about extrafamilial abuse.

⁴ Lucy Berliner, Sexual Assault Center, Harborview Hospital, Seattle, WA.

⁵ Unpublished data provided by Robert Freeman-Longo, Director, Sex Offender Unit, Correctional Treatment Programs, Oregon State Hospital.

Nationally recognized experts contacted in this study agree that no applicable profile of sexual abusers exists. Five experts said explicitly:

- "Don't believe anyone who says there is an abuser profile. There simply is no such thing."
- "There is no profile—that's part of the problem."
- "There is no sex abuser predictive model. Most studies of abusers are of incarcerated individuals and statistically invalid."
- "The typical psychologist cannot spot a sex offender. Sex offenders can even pass polygraph tests."
- "A trained psychologist can't identify an abuser easily. Even after treating 300-400 sex offenders, I would pick up a lot of 'false positives.'"

In an effort to develop predictive as well as treatment information, the HHS National Institute of Mental Health, through its Rape Center and its Center for Antisocial and Violent Behaviors, has funded the following recent and/or current studies:

1. Evaluating Sex Offender Treatment Programs, Mark Weinrote, Evaluation Research Center, Eugene, Oregon. (5/79 - 3/81.)
2. The Rapist's Social Background and Criminal Career, James Galvin, National Council on Crime and Delinquency, San Francisco, California. (5/79 - 3/81.)
3. Subtyping of Sex Offenders, Raymond Knight, Brandeis University. (4/80 - 3/87.)
4. Sex Aggression: Constructing a Predictive Equation, Clarke Institute of Psychiatry, Toronto, Canada. (5/81 - 4/82.)
5. Incarcerated Rapists: Exploring a Sociological Model, Diana Scully, Virginia Commonwealth University, Richmond, Virginia. (9/81 - 4/83.)
6. Prevention of Relapse in Pedophiles, Richard Laws, Specific Professional Association, Morrow Bay, California. (1984 - present.)
7. Evaluation and Treatment of Child Molesters, Gene Abel and Judith Becker, Columbia University, New York. (1984 - present.)

Although there is no predictive model or abuser profile to aid in identifying child sex abusers, there are some common descriptors. Sex abusers come from all socio-economic backgrounds. As a police investigator noted, "They are beggars to bankers." There is a victim cycle, both of the abuser himself and the child's mother or guardian who knowingly does nothing to stop the abuse. Study respondents cited that as many as 75% of offenders have been victims themselves. Although female victims are less likely to become abusers, they often become covert perpetrators who fail to protect the child. As an investigator summarized, "An abused girl becomes the mother of an abused child and then the grandmother of an abused child. She rationalizes, 'It's not so bad—my father did it to me. It's expected.'"

Most abusers maintain otherwise responsible lives. They are often considered "real nice guys," whose friends and neighbors are shocked if they are caught and publicly identified. Although some are psychotic or mentally ill, many more have cognitive distortions. They rationalize their behavior as "sex education." "The kids like it." "Kids are consenting." "It doesn't hurt them."

The research of Dr. A. Nicholas Groth was referred to frequently by study respondents, as the state-of-the-art in describing child sex abusers. He describes two types of pedophilic behavior:

FIXATED

- Primary sexual orientation is to children.
- Pedophilic interest begins during adolescence.
- No precipitating stress/no subjective distress prior to the assault.
- Persistent interest--compulsive behavior.
- Preplanned, premeditated offense.
- Equalization: offender identifies closely with the victim and equalizes his behavior to the level of the child; offender is a pseudopeer to the victim.
- Male victims are primary targets.
- Little or no sexual contact with agemates; offender is usually single.
- Usually no history of alcohol or drug abuse.
- Characterological immaturity/poor socio-sexual peer relationships.
- Offense = maladaptive resolution of life issues.

REGRESSED

- Primary sexual orientation is to agemates.
- Pedophilic interest emerges in adulthood.
- Precipitating stress usually evident.
- Involvements may be more episodic.
- Initial offense may be impulsive, not premeditated.
- Substitution: offender replaces conflictual relationship with involvement with the child; victim is a pseudo-adult substitute.
- Female victims are primary targets.
- Sexual contact with child co-exists with sexual contact with agemates; offender is usually married/common-law.
- In more cases the offense may be alcohol related.
- More traditional lifestyle but underdeveloped peer relationships.
- Offense = maladaptive attempt to cope with specific life stresses.⁶

Study respondents also agreed that there is no such thing as an abused child profile. Children frequently do not tell when they are sexually abused because they are afraid that (a) they or someone they love will be punished or killed, (b) no one will believe them or (c) they are responsible in some way for the abuse. Also, children may not be able to tell someone directly, either lacking the language skills or being too young to verbalize. There are, however, signals or "red flags" that may indicate that a child has been assaulted. The following signals may help in detecting sexual abuse in children:

- Inappropriate sexual knowledge or behavior, e.g., preschooler knowledge of sexual intercourse
- Sudden withdrawal, passivity or depression

⁶ Adapted by Robert E. Freeman-Longo from Sexual Assault of Children and Adolescents, by Ann W. Burgess, A. Nicholas Groth, Lynda Lytle Holmstrom and Suzanne M. Sgroi, Lexington: Lexington Books/D.C. Heath, 1978.

- Sudden active or violent behavior
- Fantasy or infantile behavior
- Poor peer relationships
- Self-mutilation
- Suidical actions or discussions
- Reluctance to go certain places, e.g., neighbor's house
- Change in eating habits or gagging around food
- Multiple personalities
- Psychosomatic disorders
- Nightmares, fear of the dark, or sudden bedwetting
- New fears
- Dislike or avoidance of someone previously liked, including a parent
- Bodily bruises
- Irritation or pain in genital/rectal areas
- Venereal disease, especially under age 13
- Difficulty in walking or sitting
- Torn, bloody underwear
- Early pregnancy
- Truancy or runaway behavior

Of all of these, the most telling sign of sexual abuse is unusual sexual behavior beyond the child's age level in both verbal and action cues. "All sexual behavior is learned. Children either observe it or experience it," reminded Lucy Berliner of the Seattle Sexual Assault Center. In sum, any sudden and/or unusual behavior in a child may be caused by sexual assault and should be investigated.

Generally, the best advice offered to detect sexual abuse is to educate parents, teachers and caretakers to watch children carefully, listen to what they have to say and recognize the signals or indicators of possible abuse. Then, the key is to believe the child when abuse is asserted.

There are several reasons why abusers avoid detection. Historically, society collectively has been unwilling to recognize or talk about child sexual abuse, making it easier for abusers to evade discovery. With few exceptions, child sexual abuse is not observed by witnesses. It is performed in isolation, in secrecy, and the victims are reluctant to report it. The child may not know or may be convinced by the abuser that nothing is wrong with the act. Children, especially the very young, are too trusting and are easily manipulated. Some abusers convince their victims to assume the responsibility and/or guilt for the abuse. In other situations, abusers intimidate their victims, coercing them into compliance by threatening to harm them or a loved one, "If you tell, your mother will die." In some cases, they try to target children who are neglected or whose parents are having life adjustment problems, such as death, separation or divorce. Even when detected, they frequently move on and with the absence of an interstate tracking system easily avoid detection.

As little is known about the cause or deterrence of child sexual abuse, little is known also about treatment for abusers. Some believe that incarceration is the only answer, that the pathology of a pedophile is so intractable he must be taken out of circulation. A few respondents suggested self-help programs like Parents United, wherein support groups of former abusers work with current abusers under supervision of trained psychologists. Others suggested use of medication (to lower the level of the male hormone testosterone and reduce the abuser's sexual drive) or aversion therapy. Dr. Vincent Fontana, Chairman of the New York City Mayor's Task Force on Child Abuse and Neglect, summarized the views of most respondents, "We can't determine effective treatment until we know more about the problem."

*"The amendment...is a modest first step that would help states establish and improve child abuse prevention programs."
Senator Levin, Introducing P.L. 98-473*

THE NEW LAW AND THE FBI CRIMINAL RECORD SYSTEM

New legislation enacted as part of P.L. 98-473, continuing appropriations for fiscal year (FY) 1985, (a) requires the Department of Health and Human Services to draft a Model Child Care Standards Act for states' consideration by January 12, 1985, and (b) authorizes (without an appropriation) challenge grants to the states for child abuse prevention activities with federal funds to accrue the year following that in which the states earmark their own funds.

This act also authorizes and appropriates \$25 million under the Title XX Social Services Block Grant, to be distributed to each state proportionate to its other Title XX funding for the purpose of training (including training for child abuse prevention) providers, operators and staffs in licensed or registered child care facilities. To keep from losing one-half of these funds in FY 1986 and FY 1987, however, states are required to have in effect by September 30, 1985, (1) procedures established by state law or regulations to provide for employment history and background checks and (2) provisions of state law consistent with P.L. 92-544 requiring nationwide criminal record checks for all current and prospective operators, staff, or employees of child care facilities and juvenile detention, treatment, or correction facilities. The child care facilities are defined to include any facility or program having primary custody of children for 20 hours or more per week.⁷

The only feasible way for a state to conduct a "nationwide criminal record check" on any person is to access information contained in the computerized criminal history file of the Federal Bureau of Investigation. P.L. 92-544 authorizes the FBI to exchange identification information from this file with duly authorized officials of state government, "if authorized by state statute and approved by the Attorney General."

In fact, the Attorney General, through the FBI Identification Division, has screened and approved over 500 state statutes requiring FBI fingerprint checks for employment or licensing purposes. Last year, out of a total of 6 million fingerprint cards submitted for all criminal and other screening purposes, the Identification Bureau screened 697,000 fingerprints for licensing or employment purposes. Screening is free of charge to authorized law enforcement agencies in return for their cooperation in supplying arrest and disposition information to the FBI. However, the FBI collects a fee of \$12 per screen (i.e., per fingerprint card submitted) for licensing/ employment checks. Fingerprint cards are submitted to the FBI via the single approved state identification bureau, such as the state police, and are returned to that bureau or directly to the state licensing or social service agency authorized in the state statute.

⁷ Congressional Record, October 2, 1984, p. S12710.


A state statute is accepted by the FBI for inclusion in the process so long as it (a) does not violate public policy (e.g., Civil Rights) and (b) clearly shows that the state legislature intended that a nationwide check be conducted. The FBI is prepared to screen any state laws submitted in accordance with P.L. 98-473 and to accept fingerprint cards on child care staff accordingly for the \$12 fee. However, our discussions with the FBI's Identification Bureau indicated that they do not intend to review compliance with P.L. 98-473, i.e., the FBI will not determine whether the scope or coverage of the state statutes with respect to the type of staff or facilities involved is sufficient to qualify the state for continued training funds under Title XX. The FBI considers such determinations to be the responsibility of HHS.

The FBI's National Crime Information Center (NCIC) is currently developing a new criminal record access system decentralizing all record-keeping to the states. Under this new Interstate Identification Index, states will maintain their own statewide records, which will be accessible through a computer query of the FBI file. Only 15 states are now participating in demonstrations of the new system. While this system conceivably might reduce the necessity for fingerprint checks, the NCIC Policy Advisory Board strongly opposes its use for employment/licensing screening because of the wide divergence of state laws concerning the dissemination of criminal history information for such purposes. Some states even deny federal agencies, such as the Office of Personnel Management, access to state criminal record information for federal employment screening. Both the FBI and state identification bureau officials emphasize that name checks or any other screening without fingerprints are subject to error and misapplication when used for licensing/employment screening purposes.⁸

⁸ Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice: Memo of June 11, 1984, to the Honorable Strom Thurmond, Chairman, Senate Judiciary Committee, with reference to S. 1924.

CURRENT SCREENING PRACTICES IN THE STATES

The FBI has approved licensing/employment screening statutes for all but nine of the states in one or more areas of employment. Forty-one states and the District of Columbia require FBI checks for employment in the banking and/or securities industries, and 37 states require FBI screening for federal employees. Over half the states require such screening for private investigators and/or gambling establishments, and many states require such screens in conjunction with gun permits and/or alcohol distribution. In New Jersey, one must have an FBI check to run a bingo or raffle, do acupuncture, be a firefighter, plumber, undertaker or cigarette salesman. In Texas, such a check is required for junk dealers, pest controllers, union business agents and marriage counselors. In the District of Columbia, an FBI screen is required to operate a bowling alley or a massage parlor, or to be a cab driver, pawnbroker, fortune teller, clairvoyant or medium.

In professional occupations, such screening is required less frequently. Only 12 states require FBI screens for teachers, doctors, dentists, nurses and/or lawyers, with California, Minnesota and New Jersey requiring the most screens. Only three states have approved statutes requiring FBI screens for any directors or staff of day care programs: California, Georgia (directors only) and Minnesota. Minnesota's authorized use of FBI screens has not been implemented because of budget limitations. 

States vary considerably on (a) what sorts of child care they license or register, (b) whom they screen: whether operators, teachers, peripheral staff or volunteers, (c) how they screen: whether by fingerprints, name checks or reference checks, and (d) what records they screen against: whether against the FBI file, state criminal record files, or the state's child abuse/neglect registry. A number of recent surveys of day care licensing practices in the states are available.⁹ However, these largely fail to describe the employment screening practices used by the various jurisdictions. Most of the information which follows was collected for this study from discussions with state staff.

All states license at least some child care facilities, usually called day care centers or group homes. Thirty states license family day care homes, 12 states register family day care homes, and 3 states do both. Five states license only subsidized family day care.¹⁰

⁹ - Minimum Standards for Day Care Centers, National Association for Child Care Management, (1983), 1800 M Street N.W., Suite 1030N, Washington, DC 20036.

- Comparative Licensing Study, Administration for Children, Youth and Families, Office of Human Development Services (1981), Washington, DC.

- Day Care Centers in the U.S.--A National Profile 1976-1977, (1978), ABT Associates, Cambridge, MA.

¹⁰ Adams, D., "Family Day Care Registration: Is It Deregulation or More Feasible State Public Policy?" Young Children, 4:75, 1984.

Although only three states use FBI fingerprints to screen day care directors and/or employees, the practice of screening these persons using names, fingerprints or other identifying information against state criminal record files and/or abuse registries is more widespread. Name checks, used alone, miss anyone who has legally changed his name or adopted an alias and generally are far less accurate. Twenty-four states indicated that they currently perform statewide criminal record screens of directors, employees or both. These usually are limited to licensed programs, though not necessarily applied to all licensed day care programs.

While virtually all states maintain child abuse and neglect registries identifying abusers within families, only 15 states use the registry as a screening tool for child care employment or licensing. Because some states have not consistently purged their registries, many contain names of people for whom the allegation of child abuse was never substantiated. Since most of the people listed on these registries have not been prosecuted, any expanded use of the registries as a screening tool for employment could result in due process or legal challenges. Besides the state criminal file and the registry, 24 states require other forms of background checks and/or employee certification of criminal history. Only 14 states use none of these screening tools for child care employment or licensing.

This picture is complicated further by variations in employee coverage: 23 states apply screening to day care program directors, 22 states to day care program employees, but only 18 states to both. Ten states use some type of screen for day care volunteers.

Variations exist also within state boundaries. A few states give cities and counties the option to use certain screens. Probably the most significant of these is New York City, where a new city law, effective October 1, 1984, mandates fingerprinting of all day care center directors and staff as well as of all licensed family day care operators and all adults in these homes. The fingerprints will be screened against the state criminal file (not the FBI file). Meanwhile, the state of New York requires screening of day care staff against the state child abuse registry, but not against the state criminal record file.

Finally, this incredibly complex pattern of screening variations is in flux, with at least 20 states anticipating new legislation to authorize some sort of criminal record screens for day care operators, employees and/or volunteers.

POTENTIAL SCOPE OF SCREENING

Based on a sample of 60,000 home interviews conducted in 1983, the U.S. Bureau of Labor Statistics (BLS) estimates that 1,041,000 child care workers are employed in the U.S., with another 80,000 unemployed. Of those employed, 408,000 work in private homes. This group is 95% female and includes child attendants, mothers' helpers, nursemaids, day care workers, baby sitters and governesses. The other 633,000 work in other-than-private homes. This group is 97% female and includes day care workers, day care aides, attendants, Head Start workers, house parents, playground monitors and bus drivers in day care centers. These numbers are quite comparable to those projected from informal estimates by state officials in 10 states which were subsampled in this study.

Presuming that most of what the BLS described as "child care in other-than-private homes" means day care centers and group homes, these are virtually all licensed by states.¹¹ It is more difficult, however, to estimate what portion of in-home child care or family day care is licensed or registered. The 1981 National Day Care Home Study found that of an estimated 1.3 million day care homes, only 137,865 (10.6%) were regulated.¹²

We estimate, therefore, that 633,000 persons work in licensed day care centers or group homes; and 43,200 (408,000 x 10.6%) work in licensed family day care, for a total of 676,200 employees in licensed day care in the U.S.

Family day care workers, babysitters and nannies have, according to BLS, the highest turnover rate of any group of workers in the country, at 58.8% per year, while workers in day care centers, nursery schools and Head Start rank 9th on the turnover list, at 41.7% per year--right up there with dishwashing, peddling and pumping gasoline.¹³ Assuming a conservative turnover-plus-growth rate of 45% per year, an estimated 980,490 individuals will be employed in licensed day care in this country in calendar year 1985, and 1,589,070 persons will be employed in licensed day care during calendar years 1985-1987.

Therefore, if some form of criminal record screening were applied to all operators and immediate employees of licensed day care programs during the period 1985-1987, the nationwide volume of staff to be screened would exceed half a million persons in each of the three years, assuming no repetitive screening. These estimates do not include family members, volunteers or other employees with access to the children, e.g., janitors. They also exclude an estimated 364,000 workers in unlicensed family day care.

11 ABT Associates, Cambridge, MA, Day Care Centers in the U.S., a National Profile, 1976-1977, p. 10.

12 Fosburg, S. "Family Day Care in the United States: Summary of Findings," Final Report of the National Day Care Home Study (DHHS Publication #OHDS-80-30282).

13 BLS Occupational Projections and Training Data, as quoted in Day Care USA Newsletter, Vol. 13, No. 9, September 10, 1984, p. 3.

POTENTIAL COST OF SCREENING

Costs of a criminal record check depend, of course, on the nature of the check being performed, and particularly upon whether the check involves a fingerprint screen. The FBI charges \$12 for each fingerprint card submitted for nationwide licensing/employment screening.

State identification bureau officials with whom we spoke agreed that any criminal record screen should include checks against both the state criminal file and the FBI file. Those states using fingerprints to screen against their state files unanimously agreed that two separate fingerprint cards would be necessary to do both a state and an FBI screen. State costs associated with screening vary:

California	\$15.50	Kansas	\$ 6.00
Florida (counties)	\$ 5.00	Nebraska	\$ 5.00
Georgia	\$12.00	New York (City)	\$17.00
Illinois	\$10.00	Washington	\$10.00

Some of these represent relatively low-volume operations and may not reflect what fingerprinting would cost if large numbers of day care personnel were to be screened. Also, some represent only the state cost for the screen, excluding the local costs of collecting and forwarding the cards, and processing the returns after the screen.

As an example of costs associated with volume operations, one state identification bureau director told us that he can easily process name-check-only data using mag-cards, but that fingerprint checks would require so much more staff that his facility would have to be moved. The New York City figure of \$17 includes a \$14 fee paid to the state and \$3 to produce the cards. This will allow hiring only eight teams consisting of one fingerprinter and typist to fingerprint the first 60,000 child care workers in the city.

Other hidden costs involve the delays associated with such screenings in the hiring of employees. While the FBI advises that fingerprint checks are completed in less than 10 days, the state identification officials told us that the checks usually take 6-8 weeks to process and sometimes take up to 3-4 months. Moreover, fingerprinting is an exacting process, and large numbers of cards are routinely rejected by the FBI even after the state identification bureaus have approved and forwarded them.

Costs associated with screening against state criminal records files without fingerprinting are considerably lower, ranging from \$2 to \$5 per check. Some states, like Texas, use a two-step process for license/employment screens, involving a name screen first and a fingerprint later if needed to validate the identity of a specific employee. Other jurisdictions, like New York, believe that the two-step process is less efficient than fingerprinting from the start.

We estimate, therefore, that a nationwide criminal record check involving both a state file and the FBI file, requiring two fingerprint cards, would cost about \$25 per employee in a large-volume licensing/employment screening operation. There are precedents for both full government financing of such screening efforts and fee payments by the employing organization or the applicants themselves.

"We want and need so desperately to find a solution to the tragedy of sexual abuse that we seem to be grabbing at the first remedy that comes along without considering its cost or its effectiveness." 14

*Anne H. Cohn, National Committee
for Prevention of Child Abuse*

EFFECTIVENESS OF SCREENING

Even the most avid proponents of background and criminal history checks on day care employees acknowledge that they are not a panacea for preventing sexual abuse in day care. Prosecutors, therapists, police investigators and other experts generally agreed that although none of the screening methods will catch significant numbers of pedophiles, the FBI's national fingerprint screen is more effective than any other screening method. Even the FBI system has significant limitations, however, which FBI officials acknowledged to Congress:¹⁵

- (a) The FBI files are not complete. The information contained in them is furnished voluntarily by state and local law enforcement agencies. (Study participants report that some law enforcement jurisdictions are very lax about sending in fingerprints, which is the only way an arrest or conviction is built into a criminal history. Some states send 90% of their arrests and convictions to the FBI, but other states send in as few as 15%. The director of one state identification bureau indicated that out of 400 substate law enforcement jurisdictions, over 100 hadn't sent in a single fingerprint all year.)
- (b) The records often do not specify whether the sexual assault victim was a child or an adult. (As one prosecutor noted, "We find out the accused has been convicted of battery, but we don't know if it involved a child or if he took part in a barroom brawl.")
- (c) The FBI file contains no records on juvenile offenders unless they were tried as an adult. (Research suggests that 58% of all pedophiles committed their first sexual offense as adolescents.)
- (d) The Identification Bureau does not disclose for licensing/employment screening purposes information on arrests for which there is no reported disposition, except for arrests within the previous 12 months.

¹⁴ Statement presented at Congressional Joint Hearings of the Select Committee on Children, Youth & Families and the Subcommittee on Oversight of the Ways and Means Committee, September 17, 1984.

¹⁵ McConnell, Op. Cit.

There are other reasons why screening of day care centers would have limited effectiveness. First, most known child sexual abuse is committed by family members, not by unrelated child care providers. Statistics from Illinois show, for example, that in 1983 the following perpetrators committed child sexual abuse:¹⁶

Family member, relative	80.7%	Babysitters	6.7%
Adoptive Parent	2.2%	Other Not Related	7.2%
Foster Parent	.8%	Not Identified	1.0%
Institution staff	1.2%		

Based on statistics, day care employees as a group should be expected to have fewer child sexual abusers among their ranks than the general population because 78% to 92% of child sexual abusers are male,¹⁷ while day care workers are 95% to 97% female. The effectiveness of screening, of course, has less to do with who commits child abuse than with who has a record of child abuse (or related crime) which will be discovered in the screening process. For example, the FBI reports that 80-85% of its records are for males, which means the probability of identifying a female child abuser is slim. There are reasons that child sex abusers may be expected to have a very low ratio of criminal records. Dr. Vincent Fontana, a nationally renowned expert on child sexual abuse, maintains that less than 1% of all child sexual abusers have criminal records.¹⁸ Research conducted on sex offenders in Knoxville, Tennessee, found that despite long histories of sexual abuse, only 7% had prior criminal records, usually for offenses other than sexual abuse.¹⁹ Another study involving 659 offenders who had committed a total of 280,000 crimes revealed that fewer than 15% had criminal records, again not necessarily for sex-related crimes.²⁰ Prosecutors cited case after case in which the perpetrator had no prior record.

There are other reasons why there are so few criminal records for child sexual abusers:

- Detection Difficulty: Sexual abuse of children is a crime that is very hard to detect. Other than the victims, there are usually no witnesses. These children are easily manipulated or intimidated into maintaining silence. Some children aren't aware that what is happening to them is wrong or unusual; others are extremely guilty or ashamed. Strong social taboos have kept people from talking about this issue, and even when faced with an abusive situation, many adults deny or ignore the problem.

¹⁶ Illinois Department of Children and Family Services, Child Abuse and Neglect Statistics, Annual Report--FY 1983, p. 22.

¹⁷ - 78% figure cited by Jane Lapp, American Humane Association, Project Director, National Study of Child Abuse and Neglect Reporting.

- 92% figure from Illinois Department of Children and Family Services Report, Op. Cit., p. 22.

¹⁸ New York Times, November 7, 1984.

¹⁹ John Brogden, Director, Institute for Child Sexual Abuse, Ft. Worth, TX.

²⁰ Dr. Judith Becker, Columbia University.

- Low Conviction Rates and Legal Manipulations: The variations which can occur in the course of legal proceedings are endless. The result is that sexual offenders who admit their guilt end up frequently having no record, or the record is for an offense that is not sex-related. When convictions do occur, they are often to lesser charges (e.g., a rape charge is reduced to simple assault). In other cases, prosecution sentencing is deferred if the perpetrator agrees to treatment. If a convicted sex offender with deferred sentencing completes treatment and meets the conditions of probation, a finding of not guilty sometimes is entered on his record.

There are many reasons why the conviction rate among child sex offenders is so low. Many respondents stressed that court proceedings are simply not geared to children. They make poor witnesses (e.g., can't remember dates, number of assaults, etc.) and can be traumatized by normal courtroom procedures. Many parents simply won't allow their children to go through the trauma of testifying. Reportedly, seminars are being held for defense attorneys on how to intimidate children and discredit their testimony in these cases. Furthermore, much of what children tell parents, doctors or therapists is excluded as heresay. Children also find it very difficult to confront the accused, a constitutional guarantee which keeps many courts from allowing the videotaped testimony of young children.

- Misdemeanors: Given the difficulty of producing evidence in such cases or of using children's testimony, felony charges frequently are reduced to misdemeanors via a plea bargaining process. For example, a charge of sexual contact may be exchanged for a guilty plea to indecent exposure or "flashing," usually a misdemeanor, which may result in no criminal record entry in the FBI system. In fact, state criminal records more frequently contain evidence of such sex-related actions even though they would not have been entered into the FBI file. This is one reason state screening officials urged state-level screens before the nationwide FBI screen.

The FBI reports that on licensing/employment screens generally (for everything from cab drivers to bankers) only 8% of all fingerprints submitted will be returned with any criminal history at all--for any kind of offense. This number is fairly consistent with what the state screening bureaus reported about the frequency of returns in general:

<i>Estimated percent of persons screened against state criminal files who have a prior record of arrests for any crime</i>	
<i>California</i>	<i>7.7%</i>
<i>Michigan</i>	<i>3% - 5%</i>
<i>New Hampshire</i>	<i>1%</i>
<i>New York</i>	<i>5% - 10%</i>
<i>Washington</i>	<i>5% - 7%</i>
<i>AVERAGE</i>	<i>5%</i>

Estimated screening "hits" for sexual abuse of children, as opposed to all crimes, of course, are much lower. The FBI Identification Bureau has no statistics on sexual crimes against children. None of the screening systems currently in place has yielded many day care employees with past records of child abuse. For example:

- In 1983, a screen of 20,000 employees in New York against its child abuse registry resulted in 7 "hits" (.04%). Only 2.3% of all reports of child abuse and neglect in New York State in 1983 were for sexual abuse.
- A county in Florida which conducts statewide fingerprint screens of employees identified 2 people with criminal histories out of 3,000 screened (.07%). One was a janitor with previous sex crime convictions, and a second had been convicted of murdering an adult.
- Georgia conducts statewide and national fingerprint checks on day care operators and statewide name checks on other day care employees. Thus far, a check of 570 fingerprints has resulted in one "hit" (.2%) and name checks of 2,400 employees had identified 2 others (.08%).

In the course of this study, discussions were held with prosecutors, police officials and other experts familiar with 45 individuals charged with sexual abuse of children in 37 day care facilities (22 family home day cares and 15 centers). Based on the information available on these cases, a national background check as proposed in the law would have screened out only one of these perpetrators--a male operating a licensed facility who had served time in a military prison and lost his nursing license as a result of previous convictions for abuse. The only other person with a prior record was a male who was on probation for similar acts, but because he was operating an unlicensed facility, he probably would not have been caught.

In addition to the fact that so few of these perpetrators had prior records, many probably would not be subject to the new screening mandate. For example:

- Eighteen were spouses, sons and other male relatives and friends who would not have been caught unless fingerprinting were extended to family members and friends. Furthermore, the nine sons were all juveniles and would not have a permanent record.
- Five were men who had access to children in day care, but were not direct providers of child care. These perpetrators--janitors, the mechanic who worked on the bus, the driver of a delivery van, etc.--would not have been caught unless the required fingerprinting extends to volunteers and other peripheral employees with access to the children.
- Four were in unlicensed family day care homes and probably wouldn't have been screened.

Many people argue that the time and expense of fingerprinting are justified, even if only one or two pedophiles are caught. They also maintain that mandatory fingerprinting will deter sex offenders from seeking day care jobs. There is equal concern, however, that a mandatory fingerprint screen will lull the public into complacency and create a sense of false security. Almost all parents said that they would feel more secure knowing that day care employees had submitted to criminal history checks. Countered a child abuse expert, however, "I am concerned that people will think that because an employee's record is clean, everything is o.k. That's simply not the case and can be as dangerous as doing nothing."

Screening needs to be placed in perspective. "Catching" an abuser through screening will not incarcerate him or place him in treatment. Presumably he has been through that. All screening will do will stop someone from getting that job

that day. This is consistent with experts' views that children won't really be any safer overall because pedophiles will just turn to other child-oriented activities such as youth sports, recreation centers, or the unlicensed day care down the street.

A number of respondents feel strongly that the mandate to fingerprint all day care employees is an over-reaction resulting from publicity over a few very notorious cases of sexual abuse in day care programs. Noted one nationally known expert in the field of child abuse, "Hysteria is not the proper impetus for the formation of solid public policy." Many participants also expressed concern that the current climate will drive dedicated quality employees out of day care, especially males.

SUMMARY: A POSSIBLE SCREENING SCENARIO

- 680,000 current employees in licensed child care + 47% turnover/growth = 1 million employees to screen.
- 1 million state fingerprint checks (@ \$13) and FBI checks (@ \$12) = \$25 million.
- About 50,000 (or 5%) will have some criminal record (e.g., shoplifting).
- Perhaps 1000 (or 2% of those with records) are child sex abusers.
- Firing or not hiring these 1000 would cost \$25,000 per "child sex abuser diversion."
- "Diverted" child sex abusers could still be employed in unlicensed facilities or volunteer in licensed ones.
- Since most child sex abusers don't have any criminal records, they wouldn't have been diverted.
- Probably half of the child sex abusers in child care operations aren't employees and would not even have been screened.

States, cities and counties currently involved with screening day care employees all report having had to struggle with many issues to clarify their laws and ordinances. They uniformly advise that in order to minimize the number of due process questions and other legal challenges which may be anticipated, a number of issues will need to be clarified before the federal mandate is implemented:

1. Which crimes will apply and who will decide whether a person is precluded from employment? Although most of the states currently screening day care employees for child abuse have fairly specific guidelines as to which crimes would make a person unsuitable for day care employment, they still find a lot of "grey" areas. Noted one person currently involved with such a system, "We know not to count bad checks, and we know we do count rape, but what about prostitution, a drug bust (marijuana) at a college party 12 years

ago, or the murder of a cop? We really have to look at each one on a case by case basis. We've had to make lots of judgment calls." The City of New York is currently developing an entire manual on how to treat records of current or potential day care employees. States stress that there needs to be a specific policy on who makes the final decision (e.g., who is liable?), and how much information is released to the provider. There also needs to be an appeals process and careful attention to privacy issues.

2. Who will be screened? Prosecutors and other experts stressed that approximately half the institutional perpetrators of sex crimes are individuals outside the immediate paid staff of the day care facility, but with access to the children. There are many instances of abuse by janitors, bus drivers, volunteers and friends and relatives of day care staff in centers. In home day care settings, the perpetrators are frequently spouses or sons of the operators, and often adolescents. To include everyone with access to the children in a screen will greatly expand the magnitude of what will be a massive undertaking if only the immediate staff are screened.

Also, does a person need a fingerprint check to apply for a job, or as a final condition of employment? Can the person be a probationary employee until the criminal history is verified? Is a new fingerprint check required everytime a person changes jobs? Does someone have to be rechecked from year to year, once they are on file?

3. What is a "background check"? Legal experts advise that without clear, tight definitions as to what will be used, there will be much litigation, especially in privacy-conscious states. Can a check also include arrest records, consulting the civil child abuse registry, etc.?
4. What about differences between state laws and jurisdictions? What happens when a person has been convicted of an act that constitutes a crime in one state but is not considered to be a crime in the requesting state? How do states deal with the fact that various jurisdictions define crimes differently (e.g., an act which would be considered disorderly conduct in one place would be considered lewd conduct elsewhere)?
5. Who will pay? Will the cost of screening be borne by providers, employees and applicants, states, etc.?
6. Penalties for noncompliance? Will HHS penalize Title XX if day care providers comply, but corrections officials refuse?

"Many offenders have explicitly said they wouldn't abuse kids if they knew the children would tell."

Dr. Judith Becker, Columbia University

PREVENTION: EDUCATION

There are no quick, easy or simple answers to the question, "How can child sexual abuse best be prevented?" Study respondents agreed that current licensing practices and fingerprint screens are by no means the whole answer. Many parents, providers and state officials noted that licensing often means only that a provider meets minimal facility and staff ratio standards, which are monitored infrequently.

Although all states regulate day care, there is great variation among states in their licensing and/or registration requirements. Some study respondents cautioned against federal or state action to increase licensing standards severely. Although they fear that overly stringent licensing requirements would drive many more providers underground, they do urge states to monitor licensed providers more regularly to assure that reasonable standards are met. Furthermore, many study respondents raised the concern that heavy governmental emphasis on fingerprint screens may lull parents into a sense of false security, i.e., into assuming that such checks will guarantee their children's safety from sexual abusers, when, in fact, fingerprinting will divert few child sex-abusers. They urge that fingerprint screens be used as a complement to other deterrent or prevention activities.

There is consensus among those who have worked with both victims and abusers regarding some actions besides screening which will help deter child sexual abuse:

- ° The key recommendation is to educate everyone, but especially children, parents, teachers and caretakers to the existence of abuse, what abusive behavior is, what to do when faced with an abusive situation and how to avoid abuse.
- ° Next, respondents say we must teach both parents and children to report, and to report promptly, when abuse does occur.

Other suggestions aimed at preventing child sexual abuse include:

- ° Required reporting of sexual abuse by teachers, caretakers and medical personnel
- ° Revamping of child protective service programs and retraining of CPS social workers
- ° Increased and improved counseling programs for families at risk
- ° Improved and increased treatment programs for victims and abusers
- ° Judicial reform of the criminal court system to reflect the developmental differences between adults and children
- ° More vigorous investigation and prosecution plus imposition of tougher penalties for convicted abusers.

Prevention of sexual abuse in day care settings is easier to define than intrafamilial child sexual abuse. The first line of defense still rests with the

parents who must become involved: parents should get to know the staff, make unannounced visits, meet other parents and have a roster of other parents' names and phone numbers and, most important, know and recognize the telltale signs of abuse. (For a brief outline of detection signals, see page 8 of this report.)

Day care providers can prevent sexual abuse by:

- Educating staff to be aware of the signals of abuse
- Asking for and checking all applicants' references before hiring (both teaching and non-teaching positions); asking on the application form whether the individual has ever been arrested, charged or convicted of crimes against children
- Encouraging parents to visit at any time
- Imposing a probationary period for all new staff
- Never allowing teachers or any other staff to be alone with any child
- Never allowing children to leave the premises without parental permission and accompaniment
- Fostering, within the realities of the physical structure, as much open space as possible—leaving doors open, eliminating "hooks and crannies" and other places where children can be separated from others, etc.
- Teaching the children through repetitive training with proven materials and approaches on sexual abuse curricula
- Supervising staff and volunteers carefully.

Since education is the cornerstone of these prevention strategies, study respondents recommended increased federal and state roles in supporting, developing and disseminating information to combat child sex abuse. Education programs must be targeted to each specific audience, e.g., children, parents,

The most commonly mentioned education programs for children are referred to as the "good touch/bad touch" approach. The foundation for many of the available good touch/bad touch materials originated with the Minneapolis Illusion Theater in the 1970s. Essentially this approach tells children (a) what kinds of touching are appropriate and what kinds are wrong, (b) it's o.k. to tell, (c) whom to tell and (d) how to avoid the abuser. Some education programs teach children assertive skills for escaping or resisting sexual abuse, primarily to say "no" to the potential abuser. This emphasis on resistance is, at best, controversial, especially for younger children who are taught to respect and obey the wishes of adults and who would have difficulty sorting the conflicting emotions, needs and expectations during the immediacy of the abusive contact. "The emphasis for children should be on telling rather than on saying 'no.' We'll never prevent sexual abuse by instructing a child to say 'no,'" emphasized Lucy Berliner of the Seattle Sexual Assault Center.

Anti-sex-abuse educational materials and other resources are proliferating. One focal point for cataloguing these resources is the National Committee for Prevention of Child Abuse, based in Chicago. In both government and private efforts to educate the public, it is probably desirable to emphasize the point, as one expert contacted in this study put it, that "this is not to be confused with sex education—it is public health and safety education."

STUDY METHODS

During this program inspection, staff from the Office of Inspector General (OIG) and the Office of Human Development Services interviewed by telephone 300 respondents from 49 states and the District of Columbia (New Mexico is the missing state). All telephone interviews were conducted during November 1984. Individual respondents included:

- state child protective staff and social workers,
- state licensing officials,
- city and county licensing staff,
- state criminal identification system directors,
- Congressional staff,
- Federal Bureau of Investigation staff,
- physicians,
- clinical psychologists,
- sexual assault therapists,
- district attorneys,
- police investigators,
- a judge,
- university researchers,
- other experts in child sexual abuse,
- parents of children in child care,
- providers of child care, including three major proprietary chains which represent more than 1,500 centers, and
- representatives of special interest groups.

OIG Region X staff then analyzed all data gathered from the telephone surveys, plus published data provided by study respondents.

(Ferguson is sponsor.)

UNDER CURRENT STATUTE, EMPLOYER ALLOWED ACCESS TO CRIMINAL HISTORY OF EMPLOYEES -- SPECIFIC CRIMES ONLY (CONTRIBUTING TO DELINQUENCY OF MINOR, SEX CRIMES).

CSBB 21 (H&SS):

WITH TITLE CHANGE

1. BROADENS CRIMES TO ANY THAT MIGHT POSE A RISK OF HARM TO A CHILD, AS DEFINED IN THE BILL.
2. ALLOWS FOR DISCLOSURE OF OUTSTANDING ARREST WARRANTS FOR THESE CRIMES.
3. MANDATORY STATE AND NATIONAL CHECK ON:
 - PERSONS SEEKING TO ADOPT MINORS
 - STAFF MEMBERS (AND JOB APPLICANTS) OF LICENSED FACILITIES
 - ADULT OCCUPANTS OF FOSTER HOMES AND FAMILY CARE HOMES
 - FACILITY ADMINISTRATORS AND OPERATORS
4. PROVISIONAL LICENSE/EMPLOYMENT ALLOWED AFTER STATE CHECK WHILE PENDING NATIONAL CHECK
5. ALLOWS FOR EMERGENCY PLACEMENT IN FOSTER HOME WITH NO CHECK
6. DEPARTMENT REQUESTS CHECKS ON ADMINISTRATORS AND ADULTS OF FOSTER AND FAMILY CARE HOMES, AND MAKES DETERMINATION OF WHETHER ADULT POSES RISK OF HARM TO CHILD. GRANTS LICENSE ACCORDINGLY.
7. FACILITY OPERATOR REQUESTS CHECKS ON STAFF; MUST REMOVE FROM FACILITY SOMEONE WHO POSES RISK OF HARM TO CHILD.
8. DEPT. PAYS COST OF CHECK FOR FOSTER PARENTS. ALL OTHERS PAID FOR BY APPLICANT OR FACILITY. (\$20)

BUDGETAL NOTES: H&SS (COST FOR FOSTER PARENTS, PROCESSING) \$128,000
 PUBLIC SAFETY (TO DO FINGERPRINTS) \$81,200

Rev. 17-0

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
 Bill/Resolution No.: Proposed CS SB No. 21
 Title: An Act relating to background checks
 Sponsor: HESS
 Requestor: _____
 Date of Request: 3/26/85

FISCAL DETAIL
 Agency Affected: Health and Social Services
 Program Category Affected: Social Services
 BRU, Program or Subprogram(s) Affected: Social Services BRU, Southcentral, Northern and Central Office Components

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		76.1	79.1	82.3	85.6	89.0
200 TRAVEL		6.6	6.9	7.1	7.4	7.7
300 CONTRACTUAL		37.4	29.1	30.3	31.5	32.7
400 SUPPLIES		1.2	1.3	1.3	1.4	1.4
500 EQUIPMENT		6.7				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		128.0	116.4	121.0	125.9	130.8
CAPITAL		-0-				
REVENUE		-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND		128.0	116.4	121.0	125.9	130.8
FEDERAL FUNDS						
OTHER						
TOTAL		128.0	116.4	121.0	125.9	130.8

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME		2	2	2	2	2
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: Michael L. Pridemore Phone: 465-3170
 Division: Family and Youth Services Date: 3/28/85

Approved by Commissioner: John R. Boy Date: 4-2-85 jcc
 Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget

IV. ANALYSIS

A. Assumptions

This legislation would require the department to implement state and FBI criminal record checks, which include fingerprinting, for adoptive parents and all facility staff and adult occupants who work or reside within a facility. Because no system exists for this process and because there are numerous legal and logistics problems in implementing it, a full time professional position, Social Worker IV, will be required in the Central Office to work closely with the Department of Public Safety, division field offices, private adoption agencies and the Alaska Bar Association to secure implementation. In addition there will need to be extensive work with the Department of Law regarding confidentiality provisions and potential litigation. There will be a handling burden on offices in Fairbanks and Anchorage, requiring two permanent part-time positions, Clerk Typist III's, in those offices. Until the actual workload is examined it is difficult to measure and predict the actual fiscal impact of this legislation. There are currently 1,016 child and adult foster homes with an average of 2.3 adults in each home. Public Safety has advised that we process clearances at each biennial licensure evaluation. With a 15% turnover this will result in approximately 1,725 clearances in foster homes per year at \$20 per clearance. (\$12.00 FBI processing) (\$8.00 for contracted state processing). This fiscal note assumes that the \$20 background clearance processing cost in adoptions for the 800 new adoptions per year (x 2 adults) will be the responsibility of the adopting applicants.

B. Program Summary

New positions required by this legislation will be as follow:

Social Worker IV in Juneau;
 Clerk Typist III, permanent part-time, one each in Anchorage and Fairbanks

C. Computations

Personal Services - Social Worker IV	\$ 48.8
Clerk Typist III	27.3
Travel	6.6
Contractual	37.4

1,016 x 15% divided by 2 x 2.3		
	= 1344 x 20.00	= \$26,880
Space Expense for S.W.		4,950
Space Expense for CT	2,250 x 2	= 4,500
General Contractual		1,100
		\$37,430

Supplies	1.2
Equipment - first year only	6.7
	\$129.0

Note: For successive fiscal years, space would be budgeted by Department of Administration. Computations for successive fiscal years at 4%.

D. Economic Impact

There will be no impact on the State economy.

E. Impact On Local Governments

There will be an economic impact on some local police departments.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 21 (HESS)
 Title: "...background checks...
 contact with children"
 Sponsor: Ferguson
 Requestor: Sen. HESS
 Date of Request: 4/03/85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: AST Support & Service - Laboratory Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		70.2	70.2	70.2	70.2	70.2
200 TRAVEL		1.5	1.6	1.7	1.8	1.9
300 CONTRACTUAL		6.0	6.3	6.6	6.9	7.2
400 SUPPLIES		3.5	3.7	3.9	4.1	4.3
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		81.2	81.8	82.4	83.0	83.6

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		81.2	81.8	82.4	83.0	83.6
FEDERAL FUNDS						
OTHER						
TOTAL		81.2	81.8	82.4	83.0	83.6

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Marcia Lynn McKenzie

Division: Administrative Services

Phone: 465-4349

Date: 4/03/85

Approved by Commissioner: Robert J. Sundberg

Agency: Department of Public Safety

Date: 4/6/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

file ~~Child Abuse~~
SB. 21

Vigilant in the Protection of Our
Children or Vigilantes?

Legal Considerations in Drafting Screening Laws
and
Recommendations for Safeguarding Children
In Child Care Settings

Prepared by:
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San Francisco Lawyers' Committee for Urban Affairs

I. Introduction

During the past year, allegations of child abuse, particularly child sexual abuse, have garnered widespread media attention. While statistics gathered nationwide indicate that an overwhelming 82% of child abuse is committed by family members and experts acknowledge the importance of child care in the prevention, detection and treatment of child abuse,¹ most of the publicity has focused on allegations of abuse occurring in child care settings. These allegations have prompted legislators, parents, child care givers and licensing officials to seek more effective strategies to protect children in child care. While few would wish to detract from attention which raises the public consciousness about the seriousness and prevalence of child abuse, nor criticize good faith legislative efforts to protect children, thus far the consequences of media and legislative attention are not all salutary.

Too frequently, the media maligns child care generally, never emphasizing its positive aspects. Such coverage usually discounts or ignores the dedication of thousands of child caregivers who provide an essential service to children and their parents in the face of low wages, long hours and little recognition for the importance and difficulty of their work. Additionally, such coverage also tends to shower guilt on parents who already face conflicts because of the lack of accomodation our society has made for working parents.

Similarly, many legislative responses focus only on screening out criminals or stiffening criminal penalties for offenders. In many states, criminal record history screening has been put into place without the thorough consideration such measures require. Additionally, little attention is given to a cost/benefit analysis of screening. Recent statistics from New York City, similar in result to California statistics, reveal that less than 1% of those screened had prior felony convictions.² Most importantly, attention is diverted from measures which are already proven or have the potential to expand and improve child care programs, thereby reducing the risks of improper or inadequate care.

One of the responses to allegations of child abuse in child care settings was the passage of P.L. 98-473. The paper which follows: 1) describes P.L. 98-473, 2) sets out the legal and non-legal aspects which ought to be considered in drafting a national criminal record screening law which complies (and/or goes beyond) the requirements of P.L. 98-473, 3) sets out considerations in developing laws or regulations dealing with employment history and background checks and 4) concludes with a list of recommendations for avenues other than screening to prevent child abuse in child care settings and to provide better regulatory enforcement once child abuse is suspected.

II. P.L. 98-473

As currently written, P.L. 98-473 requires states, in order to obtain their full Title XX appropriation, in FY 1986 or 1987, to have in place by September 30, 1985, procedures, (through law or regulation) to provide for employment history and background checks

and a statute which provides for nationwide criminal record checks. These checks are to be done on current and prospective operators, staff and employees of "child care facilities (including any facility or program having primary custody of children for 20 hours or more per week) and juvenile detention, correction or treatment facilities." No further guidance is given.

III. DEVELOPING A CRIMINAL RECORD SCREENING LAW

A. Why a model statute and regulations are not provided here*

After attempting to construct a model state statute for the national criminal record screening of child caregivers which would be in compliance with P.L. 98-473, it became apparent that this would not be possible for three reasons. The reasons are:

1. DHHS has chosen not to clarify programs and activities to be regulated within the meaning of P.L. 98-473, but has left this to the discretion of the states; (see Federal Register, January 15, 1985 p. 2090).
2. the wide variation among states regarding which child care and juvenile programs are regulated, to what degree and by whom;
3. a desire to distinguish what is required by the law, what is optional but desirable, and what is undesirable.

B. Legal Aspects:

1. Amending existing legislation

P.L. 98-473 requires screening of a variety of child care institutions all of which may not be regulated

* The Child Care Law is available, for a fee, to provide technical assistance in the drafting of screening statutes tailored to the needs of individual states and in compliance with P.L. 98-473. Contact Abby Cohen, Managing Attorney, Child Care Law Center, 625 Market Street, Suite 815, San Francisco, CA 94105. (415) 495-5498.

under the same state law. Consequently, states will either have to pass a law amending all of these regulatory schemes, amend each law individually, or if they are fortunate and all forms of employment covered by P.L. 98-473 appear in one law, amend only that. Additionally, they may have to amend the laws in their states governing the state agency which does criminal history checks to authorize that agency to send fingerprints to the F.B.I. and to share information it has, and information it receives from the F.B.I. with the pertinent regulatory agency which will make the employment decisions. *

2. Definition of those programs and providers of care covered

In order to comply with P.L. 98-473, and P.L. 92-544, all staff, operators and employees of defined programs need to be explicitly identified in the statute. Each state must determine what types of child care facilities exist in its state which have primary custody of children for 20 or more hours per week and which programs operate which can be considered juvenile detention, treatment and correction centers. While monies under P.L. 98-473 are limited to the training of licensed or registered providers of child care, operators and staff of licensed or registered child care, licensing and enforcement officials and parents, the definition given for those programs and providers covered in the screening mandate is not similarly limited. At the very least, in the area of child care, a law should cover any regulated (whether licensed, certified, registered or approved) child care program which operates for 20 hours or more per week. Each state also should address the following concerns:

- a. whether the statute also should include: public/private schools, foster care and forms of regulated child care which operate for less than twenty hours per week. In addition, when care takes place in a home, consider whether adults (other than the provider) residing in the home should also be screened. This is not required under P.L. 98-473.
- b. how it plans to deal with substitutes and volunteers. Depending upon how one defines "employees" under the statute, substitutes and volunteers may be employees or they may not be. Even if they are not considered employees, a state may still choose to screen

* It is the author's contention that the regulatory agency, not an operator should be receiving this information and making employment decisions. For reasons why, see section 4d below.

state explicitly that permanent employment will be contingent upon obtaining clearance. [In the case of state and employees, clearance can either be required at the time of new employment or a clearance could be issued and kept on file at the time of the first job and could last for a specified period].

b. Authority to conduct the criminal records check

The statute should require notification to the applicant that a criminal record check will occur, explicitly authorize the regulatory agency to submit the fingerprints to the state justice agency, and further empower that agency to submit prints to the F.B.I.

c. What will be considered necessary to obtain clearance

Each statute should clearly set forth the grounds upon which employment can be denied. It is unwise to leave this to guesswork or "guidelines".

(1) Convictions, not arrests for specified crimes should be used. Use of arrest data is not advised, for a number of reasons. First, because minorities are arrested at a disproportionately higher rate than whites, automatic disqualification for employment based on arrests without convictions is violative of Title VII. (See George v. Litton Systems, Inc., 472 F. 2d 631 (1972)). Secondly, arrest data is notoriously inaccurate. Misinformation may be compounded, never leading to a conviction, but resulting in a criminal history record a mile long. Just recently, a "Michigan man filed suit charging that he was wrongfully arrested five times in less than 4 months after an arrest warrant for a man using his name was placed in the national computer system of the Federal Bureau of Investigation."⁴ "Conviction" should include a finding, verdict or plea of guilty or a conviction following a plea of nolo contendere. The names of crimes will vary, state to state, but should include:

- (a) sexual abuse, assault, exploitation, (both against a minor and adult)
- (b) incest
- (c) rape
- (d) murder
- (e) kidnapping

- (f) contributing to the delinquency of a minor
 - (g) felony offenses involving narcotics
 - (h) violent felonies (armed robbery)
- (2) The statute should also state that conviction of crimes of the same nature in other states and jurisdictions are also grounds for denial of employment.
- (3) States should provide a mechanism for discretionary review if they consider every kind of criminal conviction. A good example of this type of system is California. Because California looks at all convictions other than minor traffic violations, it provides that an exemption from disqualification may be granted to one convicted of crimes other than child abuse if the director [of the state licensing department] has substantial and convincing evidence to support a reasonable belief that the applicant [and the person convicted of the crime, if other than the applicant,] are of such good character as to justify exemption. To make this determination the regulations consider:
1. The nature of the offense committed.
 2. Time elapsed since the offense was committed.
 3. Number of offenses
 4. Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 5. Activities since conviction, such as employment, education or participation in therapy, that would indicate rehabilitation.
 6. Character references
 7. Certificate of rehabilitation from a court.

However the state should choose to consider convictions, it should balance the risk to children versus the employment rights of persons who have

criminal conviction records. Simply stated, conviction data should only be used if it is relevant and recent.

d. Who makes the decision

The statute should clearly specify who will make the hiring/termination decision. In the author's view, it is essential that the determination be made by the regulatory agency and not by the child care program operator or provider. The reasons are:

- (1) expertise. An agency reviewing numerous criminal history records is in a better position to pass judgment upon whether termination or hiring is warranted.
- (2) liability exposure. The state, not individual programs, is in a better position to absorb the cost of potential lawsuits.
- (3) decision making by the state obviates the need for programs to develop confidentiality procedures for the receipt of criminal history information.
- (4) Keeping irrelevant criminal history record information out of the hands of employers eliminates the potential for bias against those who were wrongfully arrested and ex-offenders who have been rehabilitated.
- (5) provides for greater uniformity throughout a state on what is a minimum standard for employment.
- (6) since the state will have to do the clearance on individual operators who have no "director" above them anyway, it makes little sense to divide the same task between the regulatory agency and child care operators.
- (7) since a model statute should include an opportunity to appeal an adverse employment decision it makes sense that an agency with appeal procedures already in place (the regulatory agency) should handle appeals. It then makes little sense to divide the tasks of making employment decisions and rendering decisions on appeals.

e. Due process- notice and an opportunity to be heard

Once a determination is made, applicants should be advised of the decision in writing, whether

favorable or adverse. (If staff and employees are screened, staff employees and employers should both be notified). If the decision is not favorable, the reasons for termination or unwillingness to hire should be spelled out. Finally, applicants should be informed of how they can appeal the adverse decision-- to what agency, within what time frame, etc. Any hearing should be conducted with the usual array of due process safeguard granted in other administrative hearings.

C. Non-legal aspects

Costs: Costs for doing the national criminal records checks (F.B.I.) are estimated to be \$12; state screening costs must be added to this figure. By statute or regulation, states should specify who will pay these costs. For example, in California, no fee is charged for fingerprinting or obtaining the criminal record of persons who care for six or fewer children. Additionally, as a procedural matter, screening should occur at the state level before prints are sent to the FBI; if the person is found unacceptable at the state level this obviates the need, and resulting expense, of doing the national screening.

D. APPROVAL

Finally, any statute which intends to utilize the F.B.I. for national criminal record checks must be approved, ^{by whom? FBI} Approval should be obtained before your bill goes to the legislature for passage. Contact Mr. William H. Garvie, Identification Division, FBI, Washington, D.C. 20537, (202) 324-5456.

IV. Background Checks and Employment History

In addition to the national criminal record screening law just outlined, states wishing to receive their full Title XX appropriation must also have in place laws or regulations which provide for background checks and employment histories. Again, the DHHS has given no guidance as to what is appropriately within the

scope of a "background check" or "employment history", how these activities are to be undertaken, or by whom. Most of the considerations outlined previously will be equally relevant in drafting a background check or employment history law. Some measures states might wish to consider are:

A. Attestation To "Clean" Criminal History

States can require that those being screened also sign a declaration under penalty of perjury that they have not been convicted previously of crimes specified by the state.

B. Checks of Dependency Determinations and Parental Terminations

States can require that persons who as parents or guardians of a child have had their parental rights terminated or whose children have been adjudicated to be dependents of the state shall not be approved as operators, staff or employees.

C. Checks of Licensing History

States can also require that checks be made of any previous denials, revocations, or refusals to renew which occurred in operating facilities for dependent persons (children, elderly, etc.).

D. Objections To Use of the Child Abuse Registry

Some states have chosen to use their child abuse registries for screening. Without going into an extended discussion,* this author contends that registries should not be used for

* An in-depth examination of this topic is available from the Child Care Law Center. Please request "Use of Statewide Central Child Abuse Registries for Purposes of Screening Child Care Workers."

included in the registry, and if so, at what level or classification. Additionally, they generally have no procedures to correct incorrect findings. The author's comments are limited to use of the registry for screening purposes, and she passes no judgment on the use of registries once a complaint or allegation has been made against a child caregiver. However, there are too many troublesome facts about child abuse registries for them to be appropriately used by persons other than law enforcement or child protection personnel.

E. Employment History

Employment histories should include verification of educational credentials, and verification of previous places of employment.

F. Character/Employment References

References by previous employers ^{are} ~~is~~ critical. Reliance on friends, relatives and the like should be deemed insufficient.

G. Probationary Period

In addition to the measures suggested above, it is wise to institute a probationary period to determine a child caregiver's suitability. Child caregivers should be informed of the existence of the probation and grounds for termination.

V. Safeguarding Children in Child Care Settings: What Can Be Done? Some Recommendations

A. Licensing

1. Increase licensing's role in parent education re: licensing requirements, provider communication, questions to ask, where complaints can be made, indicators of child abuse, community resources for learning about abuse and helping victims of abuse etc. This should include use of the media, as well as other methods and materials.
2. Improve complaint process:
 - institute toll free numbers
 - speed response time and resolution
3. Train licensing personnel re: investigation, gathering and preserving evidence, identifying child abuse.
4. Make reasonable parental access to a facility a licensing requirement.
5. Make availability of parent roster to licensing a licensing requirement. Parents should also have access to a roster, although parents can also request their names be deleted from the list circulated to other parents.
6. Create a separate division or department to deal with child care so its unique nature is understood; within this division separate licensing and enforcement functions; beef-up enforcement division so response time is improved-- which often means more resources for the legal department.
7. Require child abuse reports to be cross-reported to licensing and vice versa.
8. Provide intermediate sanctions (fines) for physical plant and other non-endangering situations so that providers are required to come into compliance or face monetary sanctions.
9. Timely notification of parents and R & R when a license is suspended or revoked; development of policies for notification when administrative action is not as grave as suspension or revocation.
10. Publicize revocations/denials, non-renewals of licenses regularly and locally; publicize injunctions.
11. Add injunctive relief (to close down the facility) to standard revocation orders.
12. Develop method for placing licensing revocations on criminal history records.
13. Provide for provisional licensing status- with a statutory ending period.
14. Develop formal methods of complaint information sharing between:

- (1) child care, residential care, foster care, etc. (be certain to check if they have had a license before which has been revoked, denied, etc.)
- (2) law enforcement, protective services, licensing.
- (3) state, county, local officials

Require all these sources of information to be checked out before issuing license.

Keep records when licensee surrenders license.

15. Requirements for employees in centers- check at least three references thoroughly before hiring; require a probationary period after hire for evaluation.
16. Require protection for workers through non-retaliatory provisions for child care workers who report licensing violations.
17. Require licensing to document and study complaints for purposes of regulatory reform.
18. Interagency agreements between licensing, protective services, police, and district attorneys should be developed so investigatory responsibilities are not duplicated, impeded, or left unperformed. Possible joint investigation by CPS and licensing.

Child Protective Services/Law Enforcement

1. Staff of these agencies should be trained not only in identifying child abuse, but should understand the difference between investigations conducted in the home and those in a child care setting. Preferable use of child protective worker over police, and if police used, may want plain clothes in unmarked car.
2. Notification to licensing if CPS and law enforcement have complaints of child abuse in a child care setting.
3. Development of procedures for investigation of child abuse in child care, i.e. if parents are not targets of investigation, interviews with children should be conducted at home, or at the very least, parents should be notified before a child is interviewed.

II. Government/Private Resources

A. More resources devoted to:

-provider training in the areas of emergency preparedness, child development, licensing requirements, child abuse identification and reporting;

-adequate subsidies for low-income parents so they have choices; -increase provider wages so that high quality staff can be attracted and maintained;

-development and maintenance of R & R

B. Resource and Referral

-establish complaint policies

-develop choosing child care programs, publications

-develop means of training parents to engage in on-going monitoring of care

-help in training providers regarding child abuse and develop directories of community resources they can turn to

-encourage parents to listen to kids- what to expect- normal separation anxiety vs. symptoms of trouble

-promote providers/parents communication on a regular basis about concerns

-promote positive media coverage of child care

C. Parents

-learn about licensing requirements

-learn where complaints are to be made

-obtain roster and talk to other parents of children in care on a regular basis

-listen to kids

-advocate for more resources for child care

-visit programs and see and judge for themselves

-advise R & R and licensing if programs they have been referred to are rejected on the basis of substandard conditions

D. Employees

-learn licensing regulations and work with program to meet; report licensing violations

-advocate for in-service training opportunities, opportunities to learn about child abuse prevention, detection and treatment and provider rights and responsibilities under the child abuse reporting law.

-learn curriculum for teaching children about abuse, learn about community resources available to interested persons and victims.

E. Children

-teach about abuse; how they can respond; should be taught by trained employees.

FOOTNOTES

1. See for example the testimony of June Solnit Sale, Director UCLA Child Care Services (June 18, 1984), Dr. Vivian Weinstein, Associate Professor of Pediatrics, King/Drew Medical Center (June 18, 1984), Anne Cohn, Executive Director, National Committee for Prevention of Child Abuse (March 12, 1984) and Dr. Vincent Fontana, Medical Director and Pediatrician-In-Chief, New York Foundling Hospital Center for Parent and Child Development (March 12, 1984) before the House Select Committee on Children Youth and Families. (1984)
2. New York Times, January 18, 1985
3. Arizona House Bill 2002, introduced January 14, 1985.
4. "Victim Files Suit Over Error that Led To 5 Arrests," New York Times, February 12, 1985.

APR 7 1986 *SB 21*

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : 4/03/86

REQUEST

Bill/Resolution No. : CSSB 21 (HESS)
 Title : "An Act relating to criminal background checks; and providing for an effective date."
 Sponsor : Sen. Ferguson
 Requestor : Senate HESS
 Date of Request : 4/03/86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : DPS Administration
 Components : Laboratory

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		71.3	74.9	78.6	82.5	86.7
TRAVEL		1.6	1.7	1.8	1.9	2.0
CONTRACTUAL		6.7	7.0	7.4	7.8	8.2
SUPPLIES		3.7	3.9	4.1	4.3	4.5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		83.3	87.5	91.9	96.5	101.4
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND		83.3	87.5	91.9	96.5	101.4
FEDERAL FUNDS						
OTHER						
TOTAL		83.3	87.5	91.9	96.5	101.4

POSITIONS :

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : *Kathy Niles*
 Kathy Niles, Admin Assistant
 Division : Commissioner's Office Phone : 465-4336
 Date : 4/03/86
 Approved by Commissioner : *[Signature]* Date : 4/4/86
 Agency : Public Safety

Distribution (by Agency preparing fiscal note) :

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 21 (HESS)

<u>100 Personal Services</u>		\$71.3
Both positions to work swing shift		
Latent Fingerprint Examiner I (Range 15A)	\$42.2	
Clerk-Typist III (Range 8B)	29.1	
<u>200 Travel</u>		1.6
Travel for training to keep current in fingerprint technique		
<u>300 Contractual Services</u>		6.7
Postage, telephone	3.6	
Printing of fingerprint cards	2.6	
Training fees	.5	
<u>400 Supplies and Materials</u>		3.7
Supplies for computerized fingerprint system	2.1	
Office & library supplies	1.6	
	TOTAL	\$83.3

An effective date of July 1, 1986 is assumed.

A 5% annual inflation factor is included beginning in FY 88.

Position Title Latent Fingerprint Examiner			No. of Positions 1	Range/Step 15/A	Barg. Unit G	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Anchorage	Election District		Leg.		
Type of Expenditure			Justification					
		Amount	<p>An additional fingerprint examiner will be necessary to run print comparisons required under the proposed legislation. The individual will load the cards into the fingerprint system, edit computerized print minutiae and run comparison checks against possible aliases, etc.</p> <p>This additional workload cannot be absorbed by current staffing and, in fact, this position is budgeted to work swing shift. We originally anticipated running 75 ten-print cards and 35 latent prints through the system daily. Currently, more than 100 ten-print cards and over 35 latent prints are being processed each day.</p>					
1	2	3						
Salary \$2518/mo	30,216							
Benefits	10,865							
Premium Pay + 3.75%	1,133							
Other								
Total Personal Services		42,214						
Travel		1,600						
Contractual		4,400						
Commodities		2,700						
Equipment								
Other								
Total Cost		50,914						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004						
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
Total			50.9					
For B&M Use Only								
Key Number _____								

**Request For
New Position**

Agency Department of Public Safety
 BRU DPS Administration
 Component Laboratory

FY 87

Page 3 of 4
 Revised Date 4/03/86

Position Title Clerk Typist III			No. of Positions 1	Range/Step 8/B	Barg. Unit G	Gov.	Approv.	Disapp.
Time Status	Staff Months 12	RP Number	Location Anchorage	Election District	Leg.			
			Justification This position would provide clerical support for background checks. Duties would include correspondence with employers or individuals concerned, accessing of original fingerprint cards on file and refiling, return of cards to applicants, maintaining tickler files and preliminary checks of the Alaska Public Safety Information Network. The additional clerical workload which would result from passage of SCR 3 cannot be absorbed by the two existing clerical positions in the Lab. This position will work closely with a requested Latent Fingerprint Examiner and is budgeted at the swing shift rate.					
Type of Expenditure		Amount						
1	2	3						
Salary \$1678/mo	20,136							
Benefits	8,250							
Premium Pay +3.75%	755							
Other								
Total Personal Services		29,141						
Travel								
Contractual		2,300						
Commodities		1,000						
Equipment								
Other								
Total Cost		32,441						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004						
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
For B&M Use Only Key Number _____								

**Request For
New Position**

Agency Department of Public Safety
BRU DPS Administration
Component Laboratory

FY 87

Page 4 of 4
Revised Date 4/03/86



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.

James O. Smith
Signature of Camera Operator

10/31/89
Date

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Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate Committee on Health, Education and Social Services

January 30, 1985

Mr. Lester T. Vierra
President
Kenai Peninsula Community College
Box 848
Soldotna, AK 99669

*sent to all
commun coll
pres.*


Dear Lester:

Enclosed is a copy of Senate Bill No. 25, which if enacted, would establish the Alaska Community College System separate from the University of Alaska. The Community College system would have a seven member board appointed by the Governor, and a Chancellor.

As this bill is presently before the Senate Health, Education, and Social Services Committee which I Chair, I am especially interested in your thoughts about this proposal. Please forward to me, at your earliest possible convenience, your written comments.

Thank you for your time and consideration.

Sincerely,


Bettye Fahrenkamp
Chairman

enclosure

BF:er

ALASKA STATE ADVISORY COUNCIL ON VOCATIONAL AND CAREER EDUCATION

205 NORTH FRANKLIN, SUITE TWO
JUNEAU, ALASKA 99801
(907) 586-1736

ROBBIE STELL
President, Juneau

ROSIE PETERSON
Executive Director

February 28, 1985

Senator Bettye Fahrenkamp
Chair, Senate HESS Committee
Pouch V
Juneau, Alaska 99811

Dear Bettye:

I am in receipt of your letter of January 30, 1985, asking the State Advisory Council for its remarks on Senate Bill 25, an act establishing the Alaska Community College System separate from the University of Alaska.

In way of responding to your request let me say that the State Council has not taken a position on the current Bill. In 1982, however, the State Council was quite actively pursuing House Bill 695, which would have created a separate state agency for matters pertaining to vocational education and employment and training. You will no doubt recall that the Bill was passed from the House to the State Senate, where a compromise was reached to form a task force to study the issue and make recommendations to the Office of the Governor. In that bill the community colleges were extricated from the University of Alaska system and placed in the proposed state agency.

By way of providing information to the Committee I have enclosed several reports that I hope may provide a recent historical perspective to the issue of separation, and thereby assist the Committee in analyzing the Senate Bill 25. I will add short comments to each report to place each in its proper perspective.

"A CALL FOR COMMITMENT TO POLICY"

Each year the State Council is federally mandated to make a report on the status of vocational education and employment and training in the state. The enclosed report, "A Call for Commitment to Policy," was the thirteenth annual evaluation written by the State Council. The Council made only one recommendation that evaluation year: "That the State of Alaska make a firm commitment to develop and implement a statewide policy on occupational preparation." In defense of that recommendation the Council outlined the over 200 boards, councils, agencies, and institutions involved in vocational education and employment and training in the state. While the number of participants involved in occupational endeavours is, in and of itself, staggering, the problem becomes unwieldy when it is realized that few of these entities talk with one another---let alone plan effectively together to address the vocational education and training needs of Alaska. As you can see from the list of participants, the Community Colleges and Rural Education Extension Centers comprise a large portion of that list. And, unfortunately, they are equally guilty of not coordinating their vocational education

Senator Bettye Fahrenkamp
February 28, 1985
Page Two

efforts. In years past when similar separation bills were introduced in the Legislature they were directed at addressing, among other things, the lack of coordination between the community colleges and extension centers, other public agencies (primarily the Department of Education), and the private sector. That problem has not been ameliorated by the personnel and/or organizational changes that have taken place in the University system in recent years.

"VOCATIONAL EDUCATION AND EMPLOYMENT TRAINING TASK FORCE REPORT OF RECOMMENDATIONS AND FINDINGS"

As was mentioned earlier, the negotiated settlement on House Bill 695 was to create a task force to forward recommendations to the Office of the Governor on how best to address the issues facing vocational education and employment training in the state.

I have included here, for your information, the executive summary of the full report. If you find you need a full copy of the report I shall be glad to provide that for your use.

You will quickly note as you peruse the enclosed reports that the eight issues identified by the Task Force are a common thread woven throughout all of the reports. In the same light, the Task Force spent a great deal of time and energy discussing the fragmentation and duplication existing in vocational education and employment and training programs. The first recommendation of the Task Force, the creation of a statewide governance structure assigning an Assistant Chief of Staff for Vocational Education and Employment Training, was their solution to the lack of program coordination, which no doubt was a consideration developed into Senate Bill 25.

"PUBLIC HEARINGS REPORT"

The report of the Vocational Education and Employment and Training Task Force was delivered to Governor Sheffield shortly after he assumed office. As the Task Force was unable to conduct hearings on its recommendations, the Advisory Council joined with the Alaska Vocational Education Planning Council to conduct statewide hearings. Enclosed you will find a synopsis of testimony presented. A full report of the hearings can also be provided to you and the committee if so desired.

"A CALL FOR ACTION"

The Council's fourteenth annual evaluation report further addresses the recommendations of the Task Force and intertwines portions of the public testimony on the same. This report has been added as a transition to the next document.

Senator Bettye Fahrenkamp
February 28, 1985
Page Three

"VOCATIONAL AND CAREER EDUCATION IN ALASKA"

On December 1, 1983, Governor Sheffield, in response to the recommendations by the Task Force, designated the Alaska Commission on Postsecondary Education to be "the lead agency for the development of uniform policies for vocational and career education in the State of Alaska." He specifically directed the Commission to "initiate an effort to identify directions, costs, regulatory and statutory factors, and existing programs that can be brought under one umbrella organization that would lead to a coordinated plan of service."

While the Governor has taken no action on his directive to the Commission, the full report of the Commission is enclosed.

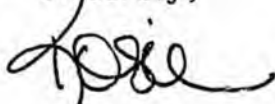
You will note from a quick perusal of the executive summary that the Commission, in recommendations B and C, has suggested removing the community colleges from their parent organization.

In our communication today we have not attempted to address the merits of Senate Bill 25. We have, instead, tried to present information highlighting the lack of coordination existing between the community colleges and the other participants in the vocational education and employment and training field. The State Council has, over the past four years, actively pursued a solution to the lack of coordination and fragmentation of occupational preparation in the state. The issue has been brought before the Legislature and the Governor's Office with no effective action taken to date.

While our rather narrow perspective, i.e. vocational education and employment and training, is only one piece of the puzzle which brings Senate Bill 25 to your attention, it is yet still an unsolved problem which affects constituents throughout our great state.

Thank you for the opportunity to address this issue. If the State Council can be of further assistance to you and/or the Committee please do not hesitate to call upon us.

Sincerely,



Ms. Posie Peterson
Executive Director

CC/Senator Fred Zarhoff

Enclosures



FEB 22 1985

TANANA VALLEY COMMUNITY COLLEGE
Fairbanks, Alaska 99701

February 13, 1985

Senator Bettye Fahrenkamp, Chairperson
Senate Committee on Health, Education and Social Services
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

At your request, I have reviewed SB 25-Establishing the Alaska Community College System, by Senator Zhharoff. I suspect that the key issues in the legislation are:

- 1) The perception of direction and responsiveness of our postsecondary institutions to citizens concerns, and
- 2) Equity between community colleges and four year colleges, and
- 3) The "share of the financial pie."

In my opinion, the main benefits of the bill are:

- Increased visibility of the community colleges as a coequal partner in training/educating adults.
- Greater autonomy of decision making.
- More impact of local constituencies in the system.

The possible disadvantages are:

- Increased visible competition for financial resources.
- Some increase in the bureaucracy and some system redundancy.
- Possible lack of coordination/cooperation/articulation between two and four year units.

It would be helpful to have a group (Board of Trustees) who are specifically interested in community colleges, meet at community colleges and dictate their attention to them. I do believe, though, that the UA Board of Regents is increasingly responsive to community college concerns.

Page Two

The provision for the establishment of regional service centers (14.41.150) is a good idea. It is further supplemented by the sections on outreach programs and relationships with school districts and other agencies. These are positive suggestions and, in many cases, are being implemented now.

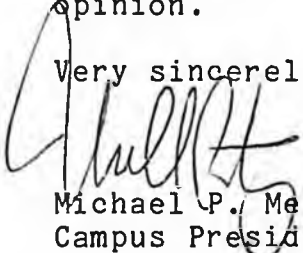
There is no question, Senator, that a community college system can be made to work and will provide certain benefits. The issues that trouble me most are ones of cost-to-benefit. Does the State of Alaska and her citizens gain enough from this legislation to make it worth almost certain additional costs? My personal opinion is that despite the problems for community colleges in a university oriented system, the citizenry is better served by the current arrangement.

We are a very small population, struggling with giant sized concerns. I think we best do our jobs when we work to coordinate and develop our whole public education system. Frankly, as a college president I get irritated by some of restrictions, red tape, and lack of speed in our system, but rationally I don't see major, substantive improvement in developing a new system that will use more resources.

The most effective change in our university system is fostered by pressure from the legislature. This bill continues to sensitize the University of Alaska to needs for local and regional development, responsiveness and citizen input, but its enactment may will cause other problems that have profound cost implications.

Thank you for the opportunity to express my views and I will ask our College Council to write you directly with their opinion.

Very sincerely yours,



Michael P. Metty
Campus President

/dac



Anchorage Community College *A Unit of the University of Alaska System*

February 15, 1985

FEB 22 1985

Representative Bettye Fahrenkamp
Alaska State Legislature
Pouch V
State Capital
Juneau, AK 99811

Dear Representative Fahrenkamp:

I am pleased to respond to your request to comment on Senate Bill No. 25, which would establish an Alaska Community College System separate from the University of Alaska. I should emphasize that this response is a personal one, because I don't yet know if either the University or the Anchorage Community College Council have positions on this bill. When such are determined and made known to me, I will see to it that they are communicated to you.

I am rather strongly opposed to the bill. My reasons for this position are pragmatic, rather than philosophical, because I have seen such systems work well in other states. As long as the University of Alaska treats its community colleges as full and equal partners, then I think that we are better with one system. President O'Dowd has shown every indication of treating us that way, so I want to remain in the tent, so to speak. Alaska is too small for two systems which would probably engage in pernicious competition for an ever-decreasing resource base. However, if and when I am convinced that the community colleges are not getting their fair share from the University, then I would be the first to lead an attempt at separation.

I hope this position is clear. Of course, I could go on with a great deal of elaboration, but let this suffice for now. I would be pleased to supply any additional information or materials which your committee might desire, and I look forward to working with you and your committee in a constructive relationship. Best wishes as you continue to work on your most difficult tasks.

Sincerely,

Herbert C. Lyon
Chancellor

xc: President O'Dowd Office of the Chancellor

TO: SB 25 FILE
FM: Edie
RE: Responses to letters/interviews

1. John C. Menzie, Campus President
KETCHIKAN COMMUNITY COLLEGE
letter enclosed
2. Ralph McGraff, President of the Alaska Federation of Teachers/
Community Colleges

Said in 1979-80 the AFTCC took an in-depth look into the issue of seperation. A bill was introduced on their behalf that was 80% identical to SB 25. The teachers are apprehensive about supporting the bill:

- a) There is a provisoin in the bill for a 10% tie-in with the school district. AFTCC wants to be autonomous.
- b) The facilities that are presently co-owned are to be retained by Anchorage University. All the ACC buildings were built in 1970 through bonding; does that mean they have to find new sites for the ACC? It would be a legal mess to determine who has rights to the buildings.
- c) AFTCC did not request this bill. They would like to know who's pushing it, and why Sen. Zharoff introduced it.
- d) The AFTCC believes that generally it's a good idea, but feel that now is bad timing.

BETTYE ASKED RALPH TO DO AN INFORMAL SURVEY OF THE AFTCC TEACHERS TO FIND OUT WHERE THEY STAND. SHE TOLD RALPH THAT UNLESS THERE WAS A LOT OF PRESSURE FROM THE SPONSOR, SHE WOULD WAIT TILL THE INTERIM TO HAVE HEARINGS AND ONLY IF IT SEEMS NECESSARY.

3. Dr. Lyon, Campus President
Anchorage Community College

Has been in the State for 5 months; came up from New Mexico. Said he's seen community colleges work well under both systems, and that he's not philosophically opposed. His concerns are as follows:

- a) The State is small and due to a reduced budget, this is a bad time to further fragment the University - to the eyes of the legislature, it may be one more unit fighting for money.
- b) Believes as long as they're treated equitably, the colleges are better off financially in the system, especially considering their ability to cooperatively use facilities, etc.
- c) Said the Community College Council has not taken a position. Dr. Brant Rock; Assistant Sup. of MOA and Hank Rosenthal, ARCO/Juneau, both have seats on the council and would be good to talk to.
- d) Said he doesn't feel the CCs get a good break in the Univerisity's proposed budget. For example, the CCs get 10% of the funding, but produce 30% of the credits statewide.
- e) Believes O'Dowd is sympathetic to the Colleges and is sensitive to the conflicts.
- f) Believes budget problems are better handled in-house

than in the political arena.

Sandra Edle

FEB 11 1985

nix

KETCHIKAN COMMUNITY COLLEGE
7th and Madison
KETCHIKAN, ALASKA 99901
907-225-6177



February 2, 1985

file

The Honorable Bettye Fahrenkamp, Chairman
Senate Committee on Health, Education,
and Social Services
Pouch V, State Capital
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

I received the copy of Senate Bill No. 25 along with your letter and read it with great interest. It looks like a good bill and complete in all respects.

I would only quarrel with one aspect, and that is the faculty trustee. This opens the question of representation by clerical staff, custodians, computer technicians, etc. There would also be the problem of the Union Contract. It has been my experience (as a faculty representative to a Board of Trustees for seven years) that it was better to sit with the trustees to offer my opinion rather than to vote. I still believe that is a sound concept. Faculty have many paths to influence, including the Assembly, Faculty Senates, Unions, etc. There is really no compelling need to seat a faculty person as a member of the Board.

Possibly no one within the community college system has complained about the inequities of being under the University of Alaska more than I, but I want to give the new University President a chance to remove these inequities before separation is made. I believe Dr. O'Dowd has the capacity and sensitivity to act in the best interests of the community colleges as well as the University centers.

Should President O'Dowd not be successful, I would be very supportive of establishing the "Alaska Community College System" as Senate Bill No. 25 prescribes--with one exception that I mentioned. I spent 23 years in the California Community College system as a student, teacher, and administrator. For many years the community colleges in California were under the Department of Education. It worked sometimes, but it was much better with our own Board of Governors and as equal partners with the University of California



Senator Fahrenkamp
February 2, 1985
Page Two

and the California State Colleges and Universities.

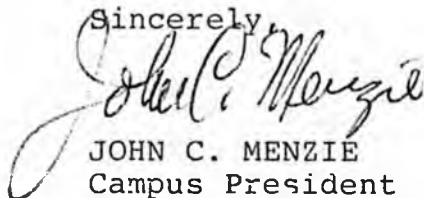
A cause of constant conflict between four-year colleges and community colleges is their different values. They do not function in the same way, think in the same way, and in many cases they do not share the same missions. I have also worked and taught at four-year colleges and therefore believe I can make that judgement. This is not to say that either are wrong in their values or approaches.

Rather than separation, perhaps a separate Board of Trustees under the University of Alaska Board of Regents would serve the same purpose. It would seem less costly than total separation. In any case, it would probably be wise to determine the costs and benefits with separation before passing Senate Bill No. 25.

In summary, I don't believe separation is justified at this time and that President O'Dowd should be given an opportunity to work out whatever problems that exist. It is my considered opinion that the Ketchikan Community College Council and the Community of Ketchikan share my views.

If I can be of any further help, please let me know and I do appreciate being asked for my opinion.

Sincerely,



JOHN C. MENZIE
Campus President

xc: Senator Ziegler
Chancellor Al Okeson
President Donald O'Dowd

JCM:mdw



FEB 18 1985

University of Alaska

P.O. Box 368 • Bethel, Alaska 99559

(907) 543-2621

February 12, 1985

Bettye Fahrenkamp, Chairman
Senate Committee on Health, Education and Social Services
Pouch V
State Capital
Juneau, Alaska 99811

Dear Chairman Fahrenkamp:

Thank you for your request of a formal response concerning Senate Bill No. 25 which, if enacted, would establish the Alaska Community College System separate from the University of Alaska.

I am aware that this general proposal has been considered in the past, and it continues to have no support from Kuskokwim Community College. Allow me to indicate some general reasons behind this position.

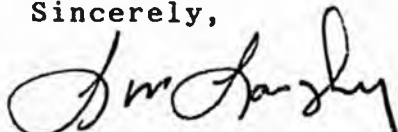
1. The community colleges have been undergoing a growth process within the University of Alaska system. The impending reorganization of the CCREE major administrative unit appears to be a healthy outcome of such growth, and will, I believe, help focus the University's attention on community college needs as a part of an integrated post-secondary education delivery system. The new University President appears to be dedicated to establishing and maintaining a very positive working relationship within the community colleges. A search is on for a strong and effective Chancellor. This would appear to me to be a poor time to initiate action to negate these positive developments and begin an uncharted course.
2. The development of a separate community college system would create another layer of administrative organization for the oversight of the community colleges. A new Board of Trustees and a potentially larger administrative organization would consume greater amounts of the education dollar, leaving less for direct instruction costs.

3. While some of the services of a comprehensive community college do not relate directly to baccalaureate programs, many do in fact need to be so related. Our Associate of Arts transfer efforts are the best example of such. The present position of the community colleges within the University of Alaska makes such integrated efforts easier. It fosters cooperation with other units of the University such as the Cooperative Extension Service, and the College of Human and Rural Development of the University of Alaska, Fairbanks. This membership further helps integrate the delivery of services to the rural areas of the state, increasing efficiency and diminishing consumer confusion.
4. Senate Bill No. 25 appears to provide for the potential proliferation of delivery units throughout the state. Whereas we at KuCC are well aware of rural Alaskans' desire for local control, and our active Community College Council is protective of this position, I suggest that there is a practical and intelligent limit to the number of extension centers, etc., that should be established. We are presently delivering some form of post-secondary educational services to forty-eight communities within our service region of fifty-two such communities. The community college system as it presently exists can readily allow for such delivery of programs, and has considerable flexibility relative to how a given unit goes about this task.
5. Considerable attention is presently being focused on rural education by a number of organizations, including the Alaska Legislature with its special task force on rural education. It appears only prudent to examine the results of such efforts before reaching conclusions relative to organizational structures for service delivery.

I have elected not to examine the bill in question, in detail. Such analysis might provide other comments, and would be the topic of a separate letter. However, I shall be hopeful that such a response will not be necessary.

Please provide any new developments with respect to this bill as you may deem appropriate. I will also be monitoring its progress through the legislative process.

Sincerely,



Lin Laughy
Campus President

cc: Al Okeson, Chancellor
LaMont Albertson, Chairperson, Community College Council
Wendy Redman, Director, Government Relations



MAR 14 1985

Eddie - FYI

Then file

TANANA VALLEY COMMUNITY COLLEGE
Fairbanks, Alaska 99701

March 7, 1985

Senator Bettye Fahrenkamp
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

In response to your query, the Community College Council of Tanana Valley Community College would like to pass on their thoughts and concerns with S.B.25 - Establishing the Alaska Community College System.

In general, the bill addresses some of the Council's concerns and misses others. It does recognize and seek to rectify the sense that community colleges have a separate and critical mission in Alaska and that clear attention to that is needed. Further, S.B.25 does acknowledge the critical need for a policy-making board that is attuned to the central needs of community-based colleges. At the same time, S.B.25 does not address some of the Council's key concerns and problems. Sepcifically, the absolutely critical issues of vocational education, recurrent training, and community economic development are left untouched.

The council believes that there are other ideas and concepts that should be considered and included in legislation and would urge that hearings be held before any significant further attention is given S.B.25.

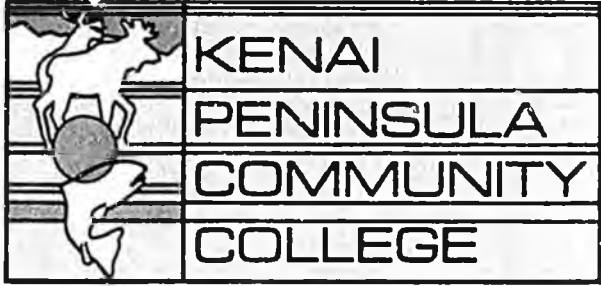
Sincerely,

Michael P. Metty, Campus President
For the TVCC College Council
4280 Geist Road
Fairbanks, Alaska 99701

MPM/af

Eddie

FEB 28 1985



OFFICE OF CAMPUS PRESIDENT

P.O. BOX 848 SOLDOTNA, ALASKA 99669 (907) 262-5801

REF: 85-39

February 25, 1985

The Honorable Bettye Fahrencamp, Chairman
 Senate Committee on Health, Education and Social Services
 Alaska State Legislature
 Pouch V State Capitol
 Juneau, AK 99811

Dear Senator Fahrencamp,

Thank you for the opportunity to respond to Senate Bill No. 25 regarding the possible separation of community colleges from the University of Alaska. Judging from the number of bills introduced by the legislature over the years regarding this subject there are problems with the present system which are not being, or have not been, addressed. My remarks will be directed towards solving present problems rather than advocating separation or a continuance of the present system.

It is not readily evident as to what problem, or problems, S.B. 25 is attempting to address. As the primary reason for an organization is to establish communication lines upward and downward, one can see little change from the present system. Perceptions of the present system would indicate a structure designed to govern, rather than communicate, from a central office to points excessively distant. Presently, several layers of bureaucratic intercession hinders communication to and between the local units and the funding body. Frustrations are created through the aggregation of pertinent local concerns into statewide multipurpose requests. Frustrations are also experienced by the bureaucratic layers in what appears to be lack of conformance by the local units. As there is really little change from the present structure, S.B. 25 does not appear to address the primary need for communication.

It would appear that S.B.25 is attempting to address a common perception amongst community college advocates that there is an inappropriate distribution of state resources. Naturally, we in the community colleges feel we are not getting a fair share--as does any subordinate organization. If such is the case, the process could be improved internally within the present system. Many states have subordinate boards to the system board of regents. The operational decisions are the responsibility of the subordinate board and the policy formation at the regent level. Presently, the regents are doing both. A redistribution of the governance authority to unit levels would free the regents to focus on policy.

The Honorable Settye Fahrencamp, Chairman
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February 25, 1985

It would also appear that S.B. 25 is attempting to place a cost effectiveness factor with a program funding approach. This is again a method which could be incorporated within the present system. Many states have such a formula funding approach. In fact, the Alaska Commission for Post Secondary Education has developed a draft formula funding approach. One should keep in mind that a formula funding method is also an entitlement to funding.

Considering S. B. 25's applicability to Alaska, if it was to be enacted in its present form, we would make the following observations:

1. The same communications problems would be encountered as with the present system. That is, the structure is designed for governance from a central office for units far removed. It would be advisable to establish the statewide board for authority and policy formulation and to establish unit boards of trustees for governance and local policy decisions.
2. A personal observation is that a campus president is under considerable stress in trying to report to several bosses, any one of whom has an effect on the campus president's employment. It would be appropriate for the statewide board and chancellor to establish levels of expectation for the unit head but the local board should have the responsibility for hiring and firing the campus president. This again is the approach that most state community college systems employ.
3. It is inappropriate for faculty members, as bargaining unit employees, to sit as members of the board which controls the bargaining agreement. It would be appropriate for representatives of employee classifications to report to the board and have a place on the agenda. This again is a common approach employed in many other states.
4. It is also probably inappropriate to attempt to mandate student membership on a statewide community college board. Very few community college students remain for two full years as full time students. To attempt to have the student representation called for in S.B. 25, student reps would be required to attend community colleges for three years to faithfully represent community college students. Also, statistically, there is greater than a 75% chance that the student would drop out before the term of office could be fulfilled. The chances for student representation would be far greater at a local level than a statewide one.

The Honorable Bettye Fahrencamp, Chairman
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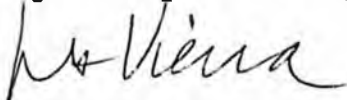
5. There would probably be no need for an increase of funding to accommodate a new structure. There is presently a statewide staff dedicated to community college administration. There would be funds available to support a statewide board of trustees if the board was pared down to the five members from the four judicial districts.

To summarize, S.B. 25 would appear to have three strengths; a statewide board of trustees dealing specifically with community colleges, there would be no increased cost to implement as the present structure would accommodate the budgetary needs, and a program approach to funding. Our perceptions of weaknesses would be: substantially the same inarticulate structure presently employed, a duplicity of authority, lack local autonomy, and conflicts of interest in board representation.

We would be pleased to further address the strengths and weaknesses if your committee should so desire. We are prepared to share our 25 years of community college experience; because we believe so strongly in the mission and goals of the community college.

Thank you again for the opportunity to respond. We shall follow your committee's deliberations with great interest.

Respectfully submitted,



Lester T. Vierra
Campus President

LTV:dm

cc: Council Members
Chancellor Al Okesor.

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 25

Sponsor: Zharoff

Date referred to committee:

Synopsis completed: 1/10/85

Fiscal note:

Further referrals:

CONTACTS:

~~513~~-513-5462(H).
Marie Motschman - 786-1208. M 10:30 →
ACE UAA Student Union