

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

3970 SHEB HB 74 - HB 88

896



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

HB

74

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: AB 74

Sponsor: GRUENBERG

Date referred to committee: 4/4

Synopsis completed:

Fiscal note:

Further referrals: FINANCE

CONTACTS:

of ✓ Nancy Bennett - Gruenberg
call after mtg. ✓ Muee Ronnekepp - Bethel 543-2748 (543-3611 X288)
✓ Bill Wallers - Guild Jones
✓ Glen Robertson BIA - 586-7177
Don Stout - Retirement; Benefits -
✓ Jon Binkley
✓ Ken Humphreys - Retirement; Benefits
✓ Bob Stallmaker 4470 - Retirement; Benefits

STATE OF ALASKA
THE LEGISLATURE

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JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House State Affairs Committee 2/5/1985, 3:00 pm
" " " " 2/7/1985, 3:00 pm

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

4/4/85

Date 4-16-85

Mr. President

The Committee on HESS considered CSHB 74(SA)am

participation of certain former BIA employees in the Teachers' Retirement System.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

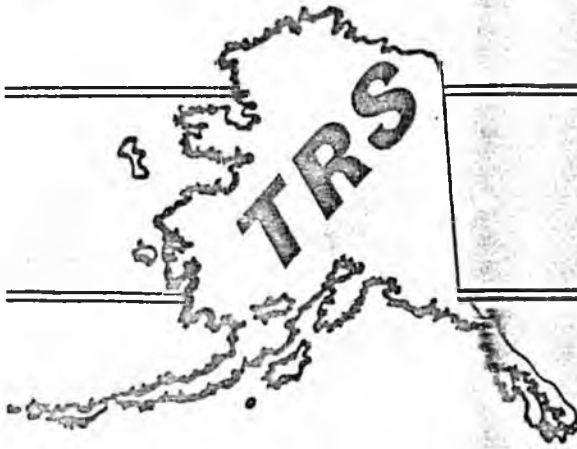
MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Handwritten signatures]

[Handwritten signature]
Chairman

[Handwritten signature]
Chairman recommendation



**ALASKA
TEACHERS'
RETIREMENT
SYSTEM**

**Including
GROUP HEALTH AND LIFE INSURANCE**

STATES

July 1982

(8) "BIA service" means service, including partial years, as a teacher in a school operated by the Bureau of Indian Affairs in Alaska;

(9) "compensation" means the total remuneration paid under contract to a member for services rendered during a school year, including cost-of-living differentials, payments for leave that is actually used by the member, the amount by which the member's wages are reduced under AS 39.30.150(c), and the amount deferred under an employer-sponsored deferred compensation plan or the tax shelter annuity plan approved by the Department of Education but does not include retirement benefits, welfare benefits, per diem, expense allowances, workers' compensation payments, or payments for leave not used by the member, whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins; for purposes of AS 14.25.050, compensation paid includes any payment made after June 30 of a school year for services rendered before the end of the school year;

(10) "credited service" means all membership service as provided in (20) of this section, territorial employment as defined in (41) of this section, plus outside, military, and Alaska BIA service with outside and military service limited to 10 years except under the conditions set out in AS 14.25.100;

(11) "deferred vested member" means an inactive member who meets the service requirements of a vested member;

(12) "dependent child" means an unmarried child of a member, including an adopted child, who is dependent upon the member for support and who is either (A) less than 19 years old, or (B) less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education; the age limits set out in this paragraph do not apply to a child who is totally and permanently disabled;

(13) "disabled member" means a member who is terminated, who has not received a refund from the system, and who is receiving a disability benefit from the system;

(14) "early retirement" means retirement under AS 14.25.110(b);

(15) "employer" means a public school district, the Board of Regents of the University of Alaska, the Department of Education, the National Education Association of Alaska, the Regional Resource Centers or the state legislature with respect to a state legislator who elects membership under AS 14.25.040(b);

(16) "former member" means a member who is terminated and who received a total refund of the balance of the mandatory contribution account, or who has requested in writing a refund of the balance of the mandatory contribution account;

(17) "full-time teacher" means a ~~teacher~~ occupying a position requiring teaching on a regular basis ~~for~~ the normal work period per day or week at a teaching assignment ~~excluding~~ teaching as an assistant or graduate assistant or ~~teacher~~ on a substitute, temporary, or per diem basis;

(18) "inactive teacher or member" ~~means~~ a member who is terminated and who has not received a refund ~~from~~ the system or a member who is on leave of absence and who is ~~not~~ making contributions under AS 14.20.345;

(19) "member contribution account" ~~means~~ the total maintained by the system of the member's mandatory contributions, indebtedness principal and interest contributions, ~~interest~~ credited to each of those accounts, and adjustments to the ~~account~~ in accordance with AS 14.25.170;

(20) "membership service" means

(A) full or part-time service as a ~~teacher~~ in a public school in the Territory or State of Alaska, or both, ~~under~~ the supervision and control of the Territorial Board of Education ~~or~~ the Department of Education or the school board of a city, regional ~~educational~~ attendance area, or borough school district;

(B) full-time or part-time teaching ~~at~~ the University of Alaska or a full-time administrative position at ~~the~~ University of Alaska which requires academic standing and which ~~has~~ been approved for inclusion in the system by the administrator;

(C) any period during which the ~~teacher~~ receives a disability benefit under this system or is on an approved ~~sabbatical~~ leave granted in accordance with AS 14.20.310; or

(D) continuous service as a state ~~legislator~~ when performed by a state legislator who elects membership ~~under~~ AS 14.25.040(b), subject to the requirements of AS 14.25.040(c);

(21) "military service" means ~~active~~ in the armed forces of the United States;

(22) "nonpublic school" means a ~~school~~ established by an agency other than a state which is primarily ~~supported~~ by other than public funds, and operation of whose programs ~~is~~ with other than publicly elected or appointed officials, and is ~~state~~ approved or accredited;

(23) "non-vested member" means ~~an~~ active or inactive member who does not meet the requirements of a ~~vested~~ member or deferred vested member;

(24) "normal retirement" means ~~retirement~~ under AS 14.25.110(a);

(25) "outside service" means service

(A) as a certificated full-time elementary or secondary teacher or a certificated person in a full-time position requiring a teaching certificate as a condition of employment ~~in~~ out-of-state public school

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2

REQUEST (State FISCAL DETAIL)
 Bill/Resolution No.: CSHB 74 Affairs Agency Affected: Department of Education
 Title: "...Participation of Former Professional Educators..." Program Category Affected: TRS
 Sponsor: Gruenberg BRU, Program or Subprogram(s) Affected: _____
 Requestor: Hurley _____
 Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
Operating						
100 Personal Svcs						
100 Ptmnt & Bnfts		12.4	13.4	14.5	15.6	16.9
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match		72.2	78.0	84.2	91.0	98.2
TOTAL OPERATING	-0-	84.6	91.4	98.7	106.6	115.1

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		84.6	91.4	98.7	106.6	115.1
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	84.6	91.4	98.7	106.6	115.1

POSITIONS: -0- -0- -0- -0- -0- -0-

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: J.K. Humphreys, Director Phone: 465-4470
 Division: Retirement & Benefits Date: 2/11/85

Approved by Commissioner: Lisa Rudd Date: 2-15-85
 Agency: Department of Administration

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

CS for House Bill 74 (State Affairs)
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

February 11, 1985

Analysis: Passage of this bill would allow those former BIA employees acting in the capacity of a BIA professional educator to claim that service in the Teachers' Retirement System (TRS) establishing a date, January 1, 1986, for interest to accumulate on any unpaid balance. The BIA administrative office has advised us that this would involve approximately 20 people having an average of 6½ years of qualified service.

This bill would result in an estimated .0347% increase in the TRS Employer contribution rate. The FY 86 TRS State Match estimated payroll is \$416,297,654.00.

The State cost of \$84.6 is calculated as follows:

one half of the change in TRS contribution rate [(.0347% divided by 2) = .01735%] times the estimated FY 86 State TRS salaries (\$71,490,744.00) equaling	\$12,400.00
plus one half of the change in TRS contribution rate (.01735%) times the estimated FY 86 State Match Payroll (\$416,297,654.00) (equaling \$72,200.00).	<u>\$72,200.00</u>
	<u>\$84,600.00</u>

The estimated costs to school districts are as follows:

<u>FY 86</u> \$59.8	<u>FY 87</u> \$64.6	<u>FY 88</u> \$70.8	<u>FY 89</u> \$76.5	<u>FY 90</u> \$82.6
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The present value of the cost of this bill is \$1,300,000.00; this would produce a .15% decrease in the TRS funding ratio.

EDUCATION
Appointment of Educators

APPENDIX A - PROCESSING CONTRACTS

4.1 Recruitment and appointment functions. Responsibilities of Education Management included in the recruitment and appointment functions for personnel actions are:

A. Applicant Lists

(1) Accepting applications;

(2) Noting applications: The Education Position Categories and Qualifications Handbook contains the minimum standards used when filling positions established as Education positions. Professional educators (Teachers, Guidance Counselors, etc.) must have appropriate state certification;

EDUCATION
Appointment of Educators
Contract Documents and Requirements

4.15 State Certification. All professional employees shall be required to obtain appropriate state certification in the state where employed. If official documentation of such certification is not received by contract renewal time, the contract shall not be renewed. Such non-renewal is not grievable or appealable.

EDUCATION
POSITION CATEGORIES AND QUALIFICATIONS
HANDBOOK

1. POLICY.

Educators employed under the contract provisions of P.L. 95-501 will be paid on an hourly rate basis, computed on the basis of the relative value of the position and the education and experience of the individual contract employee. As a minimum, the professional educator qualification standards (teacher, guidance counselor, principal, etc.) will be equivalent to those requirements established by the appropriate certification authorities of the state in which the position is located or the Bureau standard shown, whichever is higher.

2. CERTIFICATION REQUIREMENTS.

All professional educators must meet and maintain the certification standards for their position in the state where the position is located. If the state does not have certification requirement for a particular position, the qualification standard in this BIAA supplement will apply as the minimum standard for qualification for the job. If the state has a certification requirement for a position which is higher than the standard in this manual, the state certification standard is the minimum qualification requirement. If the state has a certification standard for position which is lower than the standard required by this manual, the standard in this manual is the minimum qualification standard required for the job. Emergency and provisional state certification will be accepted for all positions meeting state standards as long as the certificate is valid.

§31e.18 Certification.

(a) All Bureau educators shall be required to obtain and hold valid certificates established for their positions by the appropriate licensing and certification authorities of the State in which the positions are located within one year from the publication date of this Part unless the Director approves a written justification from the Agency superintendent for Education for extending the time limit.

§31e.77 Certification.

All pre-kindergarten educators shall be required to hold a valid certification in early childhood education by the appropriate licensing and certification authorities in the State, including Federal programs (e.g., Headstart, Child Development Associate).

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2

REQUEST
 Bill/Resolution No.: HB 74
 Title: "...Participation of Former
 BIA School Administrators..."
 Sponsor: Gruenberg
 Requestor: Hurley
 Date of Request: 1/30/85

FISCAL DETAIL University of Alaska
 Agency Affected: Department of Education
 Program Category Affected: TRS
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 85	FY 87	FY 88	FY 89	FY 90
Operating						
100 Personal Svcs						
100 Rtmnt & Bnfts		12.4	13.4	14.5	15.6	16.9
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match		72.2	78.0	84.2	91.0	98.2
TOTAL OPERATING	-0-	84.6	91.4	98.7	106.6	115.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		84.6	91.4	98.7	106.6	115.1
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	84.6	91.4	98.7	106.6	115.1

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared By: J.K. Humphreys, Director *J.K. Humphreys* ^{HR} Phone: 465-4470
 Division: Retirement & Benefits Date: 1/31/85

Approved by Commissioner: Lisa Rudd *L.R.* Date: 2/4/85
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
 Legislative Finance
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EDUCATION
Appointment of Educators

APPENDIX A - PROCESSING CONTRACTS

1. Recruitment and appointment functions. Responsibilities of Education Management included in the recruitment and appointment functions for personnel actions are:

A. Applicant Lists

(1) Accepting applications;

(2) Rating applications: The Education Position Categories and Qualifications Handbook contains the minimum standards used when filling positions established as Education positions. Professional educators (Teachers, Guidance Counselors, etc.) must have appropriate state certification;

(3) Establishing lists according to job category and according to Indian preference;

(4) Notifying applicant if qualified or not qualified. If applicant is not qualified, the application will be so noted and returned;

(5) Referring qualified applicant to job holding office for review by selecting official and for consultation with the School Board;

(6) Notification of selection: Selectees will be notified by letter and supplied a new-employee package. This package will consist of the following:

(a) Copy of Contract. The contract, with addendum for Provisional Appointments when required, will be signed and returned within fifteen (15) days of the date on the notification letter.

(b) Employee Handbook. This handbook will cover such items as:

- i. Contract Renewal
- ii. Working Conditions
- iii. Employee Benefits
- iv. Employee Rights
- v. General Information

(7) Providing a pre-employment package to selectees. The package will consist of the following:

(a) Copy of Standard Form 85, National Agency Check Investigation Form (NACI) to be completed in draft form prior to the effective date of the appointment.

(b) Standard Form 78, Certificate of Medical Examination, to be completed by selectee's medical doctor and returned to appointing office for review and approval prior to entry on duty.

EDUCATION

Appointment of Educators
Contract Documents and Requirements

4.15 State Certification. All professional employees shall be required to obtain appropriate state certification in the state where employed. If official documentation of such certification is not received by contract renewal time, the contract shall not be renewed. Such non-renewal is not grievable or appealable.

If the employee can demonstrate that he/she requested state certification within 60 days of appointment but has not received any response from the state, a copy of the documentation shall suffice for one contract renewal. Certification shall be required for any subsequent contract renewal.

4.16 Suitability Disqualifications. Employees in education positions will be assigned the task of helping to shape the lives and futures of Indian students. An applicant will be disqualified on a suitability basis when serious question is raised in reference to his/her character, reputation and fitness. An applicant may be denied appointment for the following reasons:

- A. Removal from employment for delinquency or misconduct;
- B. Criminal, infamous, dishonest, immoral or notoriously disgraceful conduct;
- C. Membership in an organization having as its objective the overthrow of the Constitutional government of the U.S. by force or violence and when membership is with the specific intent of furthering that objective.
- D. Intentional false statements, deception or fraud in examination or appointment;
- E. Refusal to furnish testimony as required by §5.3 of rule V;
- F. Habitual use of drugs, (including alcoholic beverages) affecting job performance;
- G. Any legal or other disqualification which makes the person unfit for the service.

In making suitability determinations, the following factors will be taken into account; (1) the kind of position involved; (2) the nature and seriousness of the conduct; (3) the circumstances surrounding the conduct; (4) the recency of the conduct; (5) the age of the applicant at the time of the conduct; (6) contributing social or environmental conditions; and (7) the absence or presence of rehabilitation or efforts toward rehabilitation. Elimination of an applicant from employment consideration on suitability grounds requires a determination by the Agency Superintendent for Education that the applicant's conduct may interfere with his ability to function in the position or the Agency's ability to discharge its duties and responsibilities. An objection will document the existence of a rational and direct relationship between the conduct of the applicant and nature of the work involved in the position.

1. POLICY.

Educators employed under the contract provisions of P.L. 88-501 will be paid on an hourly rate basis, computed on the basis of the relative value of the position and the education and experience of the individual contract employee. As a minimum, the professional educator qualification standards (teacher, guidance counselor, principal, etc.) will be equivalent to those requirements established by the appropriate certification authorities of the state in which the position is located or the Bureau standard shown, whichever is higher.

2. INSTRUCTIONS TO USERS.

The specific position categories and qualification standard to be used will depend on the duties of the position involved. Each standard has a general description of the duties and levels of responsibility of the position listed at the top of the standard.

3. CATEGORIES OF POSITIONS.

Current existing position descriptions will be converted to the contract categories personnel system and will be exempt from further classification in relation to contract positions. A title conversion to an identified education position title will not constitute a change in position description and will not require reclassification. Categorization of positions will be the responsibility of the school supervisor and the Agency Superintendent for Education or the Area Education Programs Administrator (for off-reservation boarding school supervisors.) All positions presently classified will not be reviewed when the position converts or is changed to the contract system. It has been administratively determined that a change in position title does not constitute reason for reclassification of the position if there are no substantial changes in the duties and responsibilities of the position.

The Agency Superintendent for Education or the Area Education Programs Administrator (for off-reservation boarding schools) will determine the proper categorization of new and revised positions. The school supervisor will forward suggested adjustments of position descriptions according to the needs of the local education program to the Agency Superintendent for Education or the Area Education Programs Administrator (with respect to off-reservation boarding schools). Such changes will be reviewed and approved by the Agency Superintendent for Education or the Area Education Programs Administrator (with respect to off-reservation boarding schools) for categorization purposes before being placed into effect.

Form 5-6233, Categories of Duties for Determining Pay of Education Positions initial page of each position description, replacing the CF-8.

A completed copy of the position description will be distributed to the following:

1. employee
2. supervisor
3. administrative file
4. official personnel file

- C. An increase in the qualifications of the individual does not automatically entitle the employee to advance to another pay level, unless he/she is assigned to a position of greater difficulty and responsibility as reflected by the position description and category of responsibility.

6. CERTIFICATION REQUIREMENTS.

All professional educators must meet and maintain a certification standards for their position in the state where the position is located. If the state does not have certification requirement for a particular position, the qualification standard in this FIA supplement will apply as the minimum standard for qualification for the job. If the state has a certification requirement for a position which is higher than the standard in this manual, the state certification standard is the minimum qualification requirement. If the state has a certification standard for a position which is lower than the standard required by this manual, the standard in this manual is the minimum qualification standard required for the job. Emergency and provisional state certification will be accepted for all positions as meeting state standards as long as the certificate is valid.

9. PROVISIONAL APPOINTMENT.

When a vacancy exists for which no fully qualified applicant can be found who meets the full performance level of a position, the following procedures may be used in filling the position:

- A. Applicants who will require the least amount of time to become fully qualified will be rated as the best qualified applicant.
- B. The incumbent will be required to make satisfactory progress toward certification requirements and/or DIA qualification standards. A memorandum of agreement will be attached to the employee contract listing the conditions of the appointment and the requirements placed upon the incumbent relative to eligibility for issuance of a new contract each consecutive year.
- C. The incumbent will be paid at a rate of pay based upon education positions with comparable qualifications as that held by the incumbent until the incumbent becomes fully qualified for the position held.
- D. The selected incumbent will not be replaced with a better qualified applicant unless they fail to make satisfactory progress toward full qualification standards or it is demonstrated that the program is suffering because of the lack of a qualified person. Removal before the incumbent meets full qualification standards is not grievable or appealable.

10. AWARDING INCREMENTS FOR EDUCATION.

Increments will be awarded employees in accordance with 62 DIAM 11.5. Examples: (1) a selected employee for an Education Aid position will receive one (1) increment for having a high school certificate even though a high school education is required to meet basic qualifications; (2) a selected employee will receive increments for a related masters degree at the (2) level although a Masters degree is a minimum education requirement for that position.

§31e.18 Certification.

(a) All Bureau educators shall be required to obtain and hold valid certificates established for their positions by the appropriate licensing and certification authorities of the State in which the positions are located within one year from the publication date of this Part unless the Director approves a written justification from the Agency superintendent for Education for extending the time limit.

(b) Cultural traditional leader positions in bilingual and/or bi-cultural programs may have this requirement waived by the appropriate school board.

§31e.19 Student enrollment.

The Agency Superintendent for Education, with the advice and consent of the agency school board, shall implement a mandatory student enrollment policy and procedure for schools under his/her jurisdiction which will include, but not be limited to, the following:

- (a) An eligibility criteria;
- (b) School enrollment boundaries; and
- (c) A standard application form.

§31e.20 Student attendance policy.

Each school shall have a written student attendance policy in compliance with the statutes of the State in which the school is located. However, for those enrolled students who are members of a Tribe having an attendance code, that Tribal Code shall take precedence for such students.

§31e.21 School year.

The length of the school year shall be, for all levels, no less than one hundred eighty (180) student instructional days.

§31e.22 School day.

Students shall be in school directed instructional activities, exclusive of lunch, in accordance with the following minimum clock hours:

<u>Level</u>	<u>Hours Day</u>
Kindergarten	3.0
Grades one to six	5.0
Junior high or middle school	5.5
High school	6.0

(b) Provide a base for special programs for exceptional children, coordinated with the required medical, dental, psychological, and social services as well as with parent education;

(c) Bilingual and multicultural education coordinated with parent education; and

(d) Educational programs for parents and the community which extend their role as educators of their children; as partners in the schooling experiences; and as decision makers and participants in the management of the early childhood pre-kindergarten program.

§31e.76 Accreditation.

Each pre-kindergarten program shall have official and current credentials which comply with not less than other like Federal (e.g., Headstart) and State agencies and tribal governments toward assurance of optimal educational opportunities based on the total development needs of the children.

§31e.77 Certification.

All pre-kindergarten educators shall be required to hold a valid certification in early childhood education by the appropriate licensing and certification authorities in the State, including Federal programs (e.g., Headstart, Child Development Associate).

§31e.78 Staff.

Each pre-kindergarten program shall have qualified staff with appropriate education and experience in the services provided in adequate numbers to meet program standards and assure effective delivery of comprehensive services.

§31e.79 School year.

The length of the school year shall be no less than one hundred and four (104) student instructional days.

§31e.80 School day.

Students shall be in directed instructional activities appropriate to their individual development level, exclusive of lunch, for a minimum of three clock hours daily.

§31e.81 Staffing patterns and ratios.

(a) Staffing patterns for each pre-kindergarten programs shall, at a minimum, meet applicable State or Tribal accreditation requirements.

(b) The size of the pre-kindergarten class for 3-4 year olds shall not exceed 15 students.

January 23, 1985

Mr. Dave Stout
Division of Retirement & Benefits
State of Alaska
Pouch CR
Juneau, Alaska 99811

Dear Mr. Stout:

In response to your verbal request of January 18, 1985, the following information is provided concerning the State Certification requirements of employees hired by the Bureau of Indian Affairs (BIA) to fill contract Education positions under the provisions of Public Law 95-561 and 62 BIAM 11.

On February 19, 1980, the Commissioner of Indian Affairs and the Director, Office of Indian Education Programs, BIA, jointly published 62 BIAM 11, Education Contract Personnel Manual, which implemented the contract Education Personnel system as provided in Public Law 95-561, November 1, 1978, and 25 CFR 31.9, November 8, 1979. The procedures in this manual applied to new employees who were appointed by contract in certain Education positions and to present employees who elected to convert to a contract position.

62 BIAM 11.4, Appendix A, Processing Contracts, outlined the contract documents and requirements for the appointment of Educators. Section 1.A. (2) is quoted as follows:

"(2) Rating Applications: Indian Education Qualification Handbook contains the minimum standards used when filling positions established as Education positions. Professional educators (Teachers, Guidance Counselors, etc.) must have state certification."

62 BIAM 11.1.3 contains the following definitions which are quoted as follows:

"G. Education Function means the administration and implementation of the Bureau's education programs and activities (including school operations).

"H. Education Position as defined in Section 1131 (n) (1) Pub. L. 95-561 means a position in the Bureau, the duties and responsibilities of which:

1. Are performed on a school year basis principally in a Bureau elementary or secondary school which involve:

Mr. Dave Stout
January 23, 1985
Page Two

(a) classroom or other instruction or the supervision or direction of classroom or other instruction;

(b) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(c) any activity in or related to the field of education notwithstanding that academic credits in education theory and practice are not a formal requirement for the conduct of such activity; or

2. Are performed at the Agency level of the Bureau and involve the implementation of education-related Bureau programs. The position of Agency Superintendent for Education is excluded.

J. Educator as defined in Section 1131(n)(2) of Pub. L. 95-561, means an individual whose services are required, or who is employed, in an education position as defined in 31g 2.(h)."

62 BIAM 11.1.4 is quoted as follows:

"1.4 Education Contract Positions. The following are examples of the kinds of positions in the Office of Education programs which will be filled by contract:

Classroom - teachers, instructors, education aides, librarians, etc.
Dormitory - home living specialist, dormitory aides, school social worker, etc.

Agency Office - education specialists, etc.

See 62 BIAM 11.3 for a listing of positions. This list will change as program needs are reviewed."

62 BIAM 11.3.2 contains the following definition which is quoted as follows:

"K. Education Specialist - Performs a variety of professional education related services. This position may operate outside the classroom in a specialized area."

On December 10, 1980, 62 BIAM 11 was revised. The changes were basically editorial in nature, a revision of forms, amendments in terms of how pay was determined, and expansion and clarification of problem areas encountered in the preceding year. On December 20, 1982, 62 BIAM 11 was again revised. The changes addressed such issues as restoration to duty rights, retention order in reduction-in-force, temporary advancement, removal of veteran's preference requirements, and provisional contracts. None of the changes had any drastic effect on the sections previously quoted herein. As I pointed out, there were some editorial changes which resulted in language being rewritten for clarity

Mr. Dave Stout
January 23, 1985
Page Three

of meaning. As an example, the statement contained in 62 BIAM 11.4, Appendix A, 1.A.(2), regarding state certification requirements for professional Educators was expanded and added as a separate section under 11.4 in December 1980. It now reads and is quoted as follows:

"4.15 State Certification. All professional employees shall be required to obtain appropriate state certification in the state where employed. If official documentation of such certification is not received by contract renewal time, the contract shall not be renewed. Such non renewal is not grievable or appealable.

If the employee can demonstrate that he/she requested state certification within sixty (60) days of appointment, but has not received any response from the state, a copy of the documentation shall suffice for one contract renewal. Certification shall be required for any subsequent contract renewal."

In conjunction with the publishing of 62 BIAM 11, on March 28, 1980, the Indian Education Qualifications Handbook was published, which contained the qualification standards to be used for Education contract positions. At this time, the qualification standards had not yet been approved by the Office of Personnel Management. On March 19, 1981, the standards were approved and the Handbook was reissued that date. The following quotes are from the March 19, 1981 Handbook and contain editorial changes from the 1980 Handbook which made the paragraphs or sections a sentence or two longer.

"1. POLICY.

Educators employed under the contract provisions of P.L. 95-561 will be paid on an hourly rate basis, computed on the basis of the relative value of the position and the education and experience of the individual contract employee. As a minimum, the professional educator qualification standards (teacher, guidance counselor, principal, etc.) will be equivalent to those requirements established by the appropriate certification authorities of the state in which the position is located or the Bureau standard shown, whichever is higher.

8. CERTIFICATION REQUIREMENTS.

All professional educators must meet and maintain the certification standards for their position in the state where the position is located. If the state does not have certification requirements for a particular position, the qualification standard in this BIAM supplement will apply as the minimum standard for qualification for the job. If the state has a certification requirement for a position which is higher than the standard in this manual, the state certification standard is the minimum qualification requirement. If the state has a certification standard for (the) position which is lower than the standard required by this manual, the standard in this manual is the minimum qualification standard required for the job. Emergency and provisional state

Mr. Dave Stout
January 23, 1985
Page Four

certification will be accepted for all positions as meeting state standards as long as the certificate is valid."

Education Specialists have always been and continue to be an integral part of the BIA Education program. I would say that about 99% of the Education Specialists in BIA come from the ranks of the Teachers, Principals and Guidance Counselors. The normal line of progression for advancement is pretty much along these same lines. Handbook X-118, Qualification Standards for Positions Under the General Schedule, published by the Office of Personnel Management, contains the qualification standards for positions under Chapter 51, Title 5, of the U.S. Code, which exist in more than one agency. It contains the current experience and training requirements coded to the appropriate series established under the Federal Position Classification Plan. Under the Education and Vocational Training Series, GS-1710, are included such positions as Teacher, Principal Teacher, Principal, Instructor, Guidance Counselor, Education Specialists, Education Program Administrator, Education Service Officers and Education Service Assistants. Parenthetical titles are included and used in many instances to identify specific area(s) of responsibility (i.e., Teacher (Elementary), Teacher (appropriate subject), Education Specialist (Special Education) (Remedial Reading) (Instructional Media) (Administration), etc.). In addition to the basic qualifications (usually a bachelor's degree and successful completion of a Teacher Education Program under an "Approved Program" approach), these positions required additional specified amounts of from 6 to 24 semester hours of appropriate subject matter in certain Education courses. The following is quoted from Handbook X-118 to describe the kinds of work performed by employees in this series:

"Employees in these positions perform professional work in Federally operated programs of education and vocational training. Many of them serve as teachers, instructors, supervisors, and administrators in academic, technical-vocational, or special education programs at elementary or secondary schools, college or graduate levels. Others provide professional support to the education staff by serving as education specialists who evaluate, develop, or advise on educational materials and instructional aids, and who specialize in subject-matter areas or in such functional areas as guidance, educational tests and measurements, training aids, and education administration. Some employees serve as education advisers on and managers of education programs for military personnel..."

Handbook X-118 was used as the basis for establishing the qualification standards to be used for Education contract positions, and published in the Indian Education Qualifications Handbook. Attachment 1 to this letter is a copy of qualification standards for Education Specialists as approved on March 19, 1981, and published in the Indian Education Qualifications Handbook.

Mr. Dave Stout
January 23, 1985
Page Five

Many of the Education Specialists formerly employed by the BIA at the various agencies throughout Alaska were not strictly "administrators" per se. They were Education Specialists with parenthetical titles of (Special Education), (Remedial Reading), (Remedial Math), (Information Systems), and (Instructional Media). They were responsible for developing curricula, testing procedures and programs, instructional methods, techniques, devices, aids and, in some cases, working with "exceptional" students. These individuals traveled extensively to BIA schools throughout the state and worked directly with principals, teachers and students. As the BIA gradually closed their schools, over the past five (5) years, the need for these positions decreased, and the employees transferred to other areas, were separated through reduction-in-force, retired or, in one case, went back to teaching in a day school.

I believe the foregoing pretty well establishes the fact that professional educators hired by the BIA under the Education Contract Personnel system were and are required to have state certification. What we have not looked at, however, is those positions that are exempt from conversion to the contract system, known as "status quo employees," who are still not required to have state certification. I have already quoted you from 62 BIA 11.1.3.H.2. which states, "The position of Agency Superintendent for Education is excluded." That is, the head Education position at each agency, must remain a General Schedule position, may not convert to the contract personnel system, and the incumbent does not have to have state certification. Additionally, all Education positions at the Area Office level are excluded from converting to the contract personnel system under P.L. 95-561. In Alaska, this includes all the positions at the Anchorage Education Field Office, Anchorage, Alaska, which consists of an Education Technician and several Education Specialists. The only Education position remaining at the Juneau Area Office itself is the Area Education Program Administrator, however, there were several Education Specialist positions that were abolished due to reductions-in-force. None of the incumbents of these positions were required to have state certification.

While the individuals that have occupied the various Agency Superintendent for Education positions at the agency level and the Education Specialists at the Area Office level were not required to have state certification, many did have it. The majority of these individuals obtained either a "Type A" or "Type B" certification while occupying a Teacher, Principal, or Principal-Teacher position at one of the Bureau day schools. The Personnel Office would not be able to identify those individuals holding state certification, however, since once an individual is separated from Federal service, their Official Personnel Folder is retired to the Federal Records Center and not available to this office. The only way that I know you could verify state certification would be by having the individual provide the state certificate or to verify it through the state office that issued the certificate.

Mr. Dave Stout
January 23, 1985
Page Five

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Mr. Dave Stout
January 23, 1985
Page Six

I hope that the foregoing information is sufficient and will be helpful to you in solving your problem. If there is any more information that I can provide you, please call me.

Sincerely,

A. E. Giroux
Area Personnel Officer

Attachment

AEGIROUX:dp 1/23/85

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HESS 4-16-85 1:38pm



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

HB



Natl Center for Missing & Exploited Children
 Janet Kosig (202) 634-9821 - reviews state leg.
 Jay Howell - nms center.

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 21
 Sponsor: Ferguson
 Date referred to committee:
 Synopsis completed: 1/10/85
 Fiscal note:
 Further referrals:

Crime Commission Anch Mini report
 George Nelson, Chip Kennaheim

CONTACTS:

Mike Scott 3862
 Ferguson
 Dept Public Safety, Frank Yorkham 4322
 Paul Conger 4336
 Ken Raney, Anch Crime Lab 269-5685
 Marilyn Crenshaw 4343 (Records)
 Don't know - ...
 James Vaden
 Dep Comm

CS SB 21 (HESS)

- ✓ Paul Conger, Pub Safety 4336 2/12
- ✓ Gail Horetski, Dept Law 3428 2/12
- ✓ ~~Carta Timpona~~ ^{Margo Dick}, Network Dom. Vio. 586-3650 2/12
- ✓ Frank Barthell, H & SS 3208 2/12
- ✓ Melinda Gruening, Juv Just Adv Comm 586-4474 Mike Price
- ✓ ~~Cindy Nelson~~, Corrections 3376 no fiscal impact 4/12
- ✓ Caren Robinson, AWARE 586-6624
- ✓ Ray Gillespie, Gov. 3500 no
- ✓ Mike Scott ~~3862~~ 3862 no
- ✓ Dana Fabe, Public Defender 279-7541 no
- ✓ Karla Forsythe, Ct Admin 264-0634
- ✓ Brant McGee, Public Advocacy 274-1684 2/12
- ✓ Barbara Miklos, Council Domestic Violence 4356 2/12
- ✓ Mike Ford, Legal 2450
- ~~Patty ... 474 6330~~

Yvonne Chase, Anch
 Commun Health 586-371000

Jo Kuykendahl, Discovery Center 456-7887
 Gail Pierce NEA Alaska 586-3090 147 S Franklin Juv 99801
 Marcie Peterson W 586-7516 H 789-2825 wants to testify on Sec 16. "mental abuse"

5-10-85

SUMMARY OF FISCAL NOTES FOR SCS CSHB 88 (Fin)

<u>Department</u>	<u>Original Request</u>	<u>House</u>	<u>Proposed Senate</u>
DHSS	1992.7	1582.1	1357.3
Law	1160.6 GF 145.2 IAR	515.8 GF 108.9 IAR	370.4 GF 108.9 IAR
Public Defender	437.2	317.4	317.4
Public Advocacy	296.1	218.3	146.7
Domestic Violence	200.0	20.0	120.0
Court System	145.9	51.3	145.9
Troopers	-0-	-0-	-0-
TOTALS	4232.5 GF 145.2 IAR	2704.9 GF 108.9 IAR	2457.7 GF 108.9 IAR

Proposed reductions made by the Senate include the following:

- DHSS 3 positions (Administrative Asst's \$124.0) plus an additional \$100.0 spread throughout each allocation.
- Law 2 positions (\$84.4), \$10.0 Contractual and \$21.0 travel
- Public
Advocacy 2 positions (\$65.0), and \$7.0 equipment



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

April 9, 1985

Representative Max Gruenberg, Co-Chair
Representative Niilo Koponen, Co-Chair
House HESS Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Representatives Gruenberg and Koponen:

I am writing with regard to a work draft of CSHB 88, relating to the protection of children, which is before the committee for hearing today. My comments are specifically directed to proposed section 13 (page 6), which includes "court personnel" within the group of persons required to report abuse or neglect of a child.

The court system is opposed to this provision. Court personnel should not be held to a higher duty than ordinary citizens in reporting incidents of this nature, especially given the court's adjudicatory role. This requirement could create the appearance that the court is taking sides in any legal disputes which may later arise. The court system believes its role should be limited to adjudication of cases, and should not be expanded to include a nonadjudicatory reporting function.

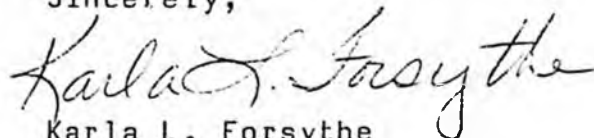
This legislation is complemented by CSSB 28, which provides that a person employed by the state who is required to report abuse or neglect shall receive training. Departments are required to develop curriculum for employees including training about laws relating to child abuse and neglect, techniques for recognition and detection, information about agencies and organizations that offer aid, and procedures for notification.

If both CSSB 28 and CSHB 88 are enacted, court system personnel would be required to report abuse, the court system would be required to provide training. The court system would not independently develop training materials, but instead would rely upon materials developed by the executive branch. However, the court system would still have to reproduce and disseminate these materials, as well as provide some minimal training, in the

form of one visit by administrative staff to each judicial district to train supervisors. The total cost of this limited training program is estimated at \$4,000. A copy of the court system's fiscal note is attached.

Thank you for this opportunity to provide comments. I will be glad to answer any questions.

Sincerely,



Karla L. Forsythe
General Counsel

KLF:smh

cc: Representative Mike Miller
Chair, House Judiciary Committee

Representative Al Adams
Chair, House Finance Committee

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 28
 Title: AN ACT RELATING TO
REPORTING CHILD ABUSE
 Sponsor: FATKS
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: ALASKA COURT SYSTEM
 Program Category Affected: _____
ADMINISTRATION OF JUSTICE
 BRU, Program or Subprogram(s) Affected: _____
TRIAL COURTS

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FI 85	FI 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		2.5	2.7	2.9	3.1	3.3
300 CONTRACTUAL		.5	.5	.6	.6	.6
400 SUPPLIES		1.0	1.1	1.2	1.3	1.4
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
900 MISCELLANEOUS						
TOTAL OPERATING		4.0	4.3	4.7	5.0	5.3

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		4.0	4.3	4.7	5.0	5.3
FEDERAL FUNDS						
OTHER						
TOTAL		4.0	4.3	4.7	5.0	5.3

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: ROBERT G. FISHER, FISCAL OFFICE

Phone: 264-0561

Division: ALASKA COURT SYSTEM

Date: 4/9/85

Approved by Commissioner: A. U. H. Smith II

Date: 4/9/85

Agency: ALASKA COURT SYSTEM

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

7/1/84

ALASKA COURT SYSTEM

CSSB 28 - REPORTING OF CHILD ABUSE
FISCAL IMPACT

The committee substitute for Senate Bill 28 requires training certain court employees to recognize and report child abuse situations. To implement this bill, the Court System will have to develop and disseminate training materials to employees. Additional travel, postage, and supply expenses will be incurred in fulfilling this responsibility. Travel funds will be needed for trainers to visit major court sites around the state. Postage costs will increase from mailing training materials to other courts. The preparation of training packets for employees will increase supply costs. The following is an estimate of these costs:

TRAVEL - visits to major courts for training	\$2,500
CONTRACTUAL - postage costs for mailing training materials	500
SUPPLIES - printshop time and materials for training packets	1,000

Total	\$4,000
	=====



Steve Lindbeck, Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Alaska's Only Morning Newspaper • Founded in 1946 by Norman C. Brown

Anchorage Daily News 9/16/84

No good reason to ignore abuse

Gov. Bill Sheffield acted belatedly but sensibly last week in approving \$200,000 in emergency funds to hire new staff to cope with Alaska's growing rates of family violence and sexual abuse. The next question is: What will the administration and the legislature come up with next year, and beyond, to address a problem with appalling human and social costs?

Just why the State of Alaska — which disposes of nearly \$4 billion a year in oil and other revenues — hadn't kept up with staffing needs as child abuse soared over the past half-dozen years is an embarrassing question. Public awareness of the issue and the statistical record of family violence have increased considerably in that time — to the point where the national newsweeklies have featured the issue in recent cover stories. And if anything is different about Alaska concerning child abuse, it is that the magnitude of the problem is even greater here than in the rest of the country. The issue, in short, was no secret to anyone.

Here's the record of Alaska's public response:

Field staff for the Division of Family and Youth Services increased just 22 percent between 1978 and 1983; but during the same period total caseloads went up 173 percent, reports of child neglect and abuse increased 319 percent, and substantiated reports of child sexual abuse increased 578 percent. At 21 of 36 field offices around the state, the average number of cases served by each social worker exceeds the accepted caseload standard of 50; in seven of those offices that standard is exceeded by 100 percent or more.

The state ombudsman's office, after probing the death of a 5-year-old abused child in Fairbanks, suggested that a burdensome workload prevented social workers from dealing with the case even after prior warnings that the child may have been a victim of abuse. And two reports so far from the Legislative Budget and Audit Division have recommended staff increases for the Division of Family and Youth Services.

Now Gov. Sheffield has ordered an emergency expenditure of \$200,000 to provide more social workers and staff support. He probably will recommend 35 new staff positions for the division in the fiscal 1986 budget now being prepared. Both steps are necessary and important.

But the governor may well find opposition to the big staff increase when he takes it to the legislature. There's little or no political gain involved in addressing such a painful, awkward and often furtive issue, and in any case Alaska lawmakers have focused considerably more on pork-barrel goodies in recent years than in meeting human needs. And the "conservatives" who control the political agenda nowadays in Alaska have frequently made it a point to attack human and social services as the focus of government waste.

But the issue won't go away. The problems of child abuse or neglect, sexual abuse and family violence in Alaska demand increased state attention. Any government that failed to respond adequately to such acute human suffering and need among such defenseless members of society would rightly be called neglectful, no matter what its financial circumstances. A government as rich and profligate as Alaska's — at least when shopping for capital projects — has no excuse if it fails to meet such basic human demands.

POSITION PAPER

COMMITTEE SUBSTITUTE FOR SENATE BILL No. 21 / HB 88

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

The department supports Senate Health and Social Services Committee's decision to substitute the Governor's Child Protection bill (HB 88) for SB 21. However, the department does have some concern with section 26, criminal history checks. Although the department supports the concept of criminal history clearance on individuals who work directly with children, the department has some reservations which are listed below.

Committee Substitute for Senate Bill 21 is an important part of a comprehensive approach to enhancing the State's ability to protect children who have been abused or neglected. Both improved laws and resources are needed to provide effective State intervention in cases of child abuse or neglect.

Committee Substitute for Senate Bill 21 contains numerous improvements to existing civil and criminal law. This Bill is the result of extensive review and proposals by personnel in the Departments of Health and Social Services and Law. A detailed section by section analysis of the Bill was transmitted to Representative Ben Grussendorf and printed in the January 18, 1985 House Journal. Major components of the Bill will:

- facilitate prosecution where appropriate;
- improve the law as it applies to child victims, through hearsay evidence changes and a "rape shield";
- expand the criminal records check of persons employed in positions of authority over children;
- provide municipalities with an effective method of enforcing curfews;
- provide practical procedures for predisposition reports in delinquency proceedings and for assuming emergency custody of an abused or neglected child;
- expand the child abuse reporting law to include "mental injury" and expand the classification of persons required under the law to report suspected child abuse or neglect;

- authorize the State to enjoin dangerous persons from child contact; and
- authorize a system of civil fines to enhance enforcement of the child care licensing law of residential facilities. The completed forms are then submitted to the Department of Public Safety which does a state record check. DFYS does not now do fingerprinting nor does it have the expertise to do fingerprinting. Fingerprinting is best done by the Department of Public Safety personnel who are trained for that activity.

Section 26 of this bill will require a criminal history check, through both state records and national FBI records, on the licensee and employees in licensed residential child care facilities, child day care facilities and child foster homes. This portion of the bill has the potential to prevent some cases of child sexual abuse by identifying persons who have endangered or harmed children in the past. However, the department has the following major concerns with section 26:

- subsection (a) does not cover volunteers or adult members of the licensee's family living in the foster home or child care home. These persons should be included in check requirements.
- subsection (a) states that all persons licensed shall have a criminal history check. "Person" as defined in AS 01.10.060(7) includes "corporation", "association", and "organization", so a question arises as to whether the board of directors of child care facilities would also be required to submit to criminal history checks.
- ^{no} subsection (a)(2) requires the background check report to be completed before the new employee can start work. Although this may be a good policy, it may cause hardships on employers, and a reduction in staff to child ratios while an employer waits for a clearance on a new replacement employee. The Department of Public Safety has stated that it could be as long as ten (10) weeks before a criminal history check is completed.
- subsection (b) states that a criminal record clearance card is valid for two (2) years. However, a method of revoking a card is needed so that a person who commits a crime which has or could endanger children during the two year card validation period could not be hired by another child care facility.
- subsection (c) refers to training for DHSS. The Department of Public Safety has stated that the training would include the taking of fingerprints. Presently the Division of Family and

POSITION PAPER/Department of Health & Social Services

*Discretionary
Approved by the Board*

Youth Services requires a Licensing Record Clearance Request form to be completed by applicants for a foster home license, all adult members of a foster home, and administrators of residential facilities. The completed form is then submitted to the Department of Public Safety which does a state record check. DFYS does not now have the expertise to do fingerprinting. Fingerprinting is best done by the Department of Public Safety personnel, who are trained for that function, and who otherwise perform this type of service. Criminal history checks and the issuance of cards could probably be most efficiently performed within the Department of Public Safety. If DHSS must do fingerprinting, fiscal note needs revision up.

subsection (c) states that if an applicant is denied employment one-half the criminal clearance fee will be refunded. The direct charge for a FBI clearance is presently \$12.00. DPS has stated that the price to do a state criminal check should be \$8.00. Will DHSS or DPS be required to refund \$10.00 out of State general funds to the applicant? A refund policy would be costly and time consuming in both direct cost and accounting costs. This provision should be deleted from the bill.

*Pub. Safety
already in
plate*

subsection (d) addresses confidentiality. Under the present agreement giving DFYS access to criminal records at the Department of Public Safety, DFYS cannot allow anyone, including the applicant, to see a criminal history report. Subsection (d), as written, continues that procedure, stating that criminal reports can be used by governmental agencies who by law license child care facilities or who protect children. May it be used by a child care employer to deny employment? Apparently, the employer will be authorized to deny employment based on the applicant's failure to obtain a clearance card from DHSS. Will there be an appeal procedure from a DHSS decision not to issue a clearance card?

The department urges this committee to hear from all private and public agencies and individuals involved in this area of criminal history checks to obtain their comments on the difficulties and possible hardships of such a new policy. Specifically, the department urges this committee to hold a public teleconference on this issue, inviting child care operators to share their concerns about the cost and delay inherent in requesting and waiting for criminal records check on all potential employees. The Governor's Criminal History Working Group has expressed concerns over procedural and legal aspects of history checks. Furthermore, the cost for this new program is not in the Governor's proposed FY 86 budget.

Practical and important improvements to the State's civil and criminal laws are needed and addressed by Committee Substitution Senate Bill 21 but these improvements will not alone meet the challenge of ensuring adequate protective services for children in Alaska. Both the child protection staff increments contained in the Division of Family and Youth Services operating budget and the management information system for the division contained in the capital budget must be fully funded to adequately address the problem. Only with improved laws, resources, and an ability to manage will Alaska break the destructive cycle of child abuse and neglect.

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

DATE: 2/12/85

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

DATE: 2/12/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB No. 21
 Title: An Act relating to.....
protection of children
 Sponsor: Sen Ferguson
 Requestor: _____
 Date of Request: 2/5/85

FISCAL DETAIL

Agency Affected: Health and Social Services
 Program Category Affected: _____
Social Services
 BRU, Program or Subprogram(s) Affected: _____
Social Services and Juvenile Custody BRU's
Northern and Southcentral Regions

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		28.5	29.6	30.8	32.1	33.3
200 TRAVEL		-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL		9.0	9.4	9.7	10.1	10.5
400 SUPPLIES		.8	.8	.9	.9	.9
500 EQUIPMENT		5.2	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		43.5	39.8	41.4	43.1	44.7

CAPITAL		-0-	-0-	-0-	-0-	-0-
----------------	--	-----	-----	-----	-----	-----

REVENUE		-0-	-0-	-0-	-0-	-0-
----------------	--	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND		43.5	39.8	41.4	43.1	44.7
FEDERAL FUNDS						
OTHER						
TOTAL		43.5	39.8	41.4	43.1	44.7

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: Michael L. Price *Michael L. Price* Phone: 465-3170
 Division: Family and Youth Services Date: 2/8/85

Approved by Commissioner: J. R. Coy *J. R. Coy* Date: 2/12/85 *JCC*
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

IV. ANALYSIS

A. Assumptions

This legislation results in significant changes in the civil child protection laws and in the laws relating to criminal prosecution of persons who fail to provide adequate protection for children. As a result, there is a high potential for increased service demands on division social workers. The extent and magnitude of these impacts are undefinable at this time, and caseload impacts cannot be precisely quantified. It is believed that the child protection staff increments requested in the Governor's FY 86 budget will provide staff levels necessary to provide adequate levels of investigation and family protective services. It must be emphasized that this fiscal note does assume full funding of the Governor's FY 86 increments, otherwise an amended fiscal note will be required. Section 26 of the bill will have an impact. While the Department has informed the Department of Public Safety that we will not roll fingerprints, tracking the estimated 6,268 individuals requiring fingerprints, and receiving reports of new individuals during a year estimated at 20% or 1,254 will place a burden on offices in Fairbanks and Anchorage requiring two PPT positions, Clerk Typist III's, in those offices.

B. Program Summary

New positions required by this legislation will be as follows:

Clerk Typist III, PPT, 1 each in Anchorage and Fairbanks

C. Computations

Personal Services - Clerk Typist III, PPT, Fairbanks	\$15.1
Clerk Typist III, PPT, Anchorage	13.4
Travel	-0-
Contractual - 2 Clerk Typist III's @ \$4.5	9.0
Supplies - 2 Clerk Typist III's @ \$.4	.8
Equipment - 2 Clerk Typist III's @ \$2.6	5.2
	\$43.5

Calculations for successive years at 4%.

D. Economic Impact

There will be no impact on the state economy.

E. Impact on Local Governments

There would be no impact on local governments.

1.	POSITION TITLE Clerk Typist III				RANGE/STEP 8A	BARG. UNIT GGU	PAGE/LINE	COV.	APPROV.	DISAST.
2.	TYPE OF POSITION PPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	PERSONAL SERVICES									
5.	Salary		11.0							
6.	Benefits		4.1							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01		15.1						
10.	Travel	02		-0-						
11.	Contractual	03		4.5						
12.	Commodities	04		.4						
13.	Equipment	05		2.6						
14.	Other									
15.	TOTAL COST			22.6						
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		C.F. Match 1003								
19.		General Funds 1004 ✓		22.6						
20.		I-A Receipts 1005								
21.		Program Receipts 1028								
		Other								
FOR B&M USE ONLY KEY NUMBER _____										

Personal Services calculations based on PAC's
Calculations for Contractual, Supplies and Equipment based of FY 86 budget submission.

**REQUEST FOR
NEW POSITION**

AGENCY Health and Social Services
Social and Economic Assistance
PROGRAM for the General Population
BRU Social Services
COMPONENT Northern Region

Page 1 of 2
Revised Date _____

FY 86

1.	POSITION TITLE Clerk Typist III				RANGE/STEP 8A	BARG. UNIT GGU	PAGE/LINE	GOV.	APPROV.	DISAST.
2.	TYPE OF POSITION PPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	Personal Services calculations based on PAC's. Calculations for Contractual, Supplies and Equipment based on FY 86 budget submission.					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	9.8								
6.	Benefits	3.6								
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01	13.4							
10.	Travel	02	-0-							
11.	Contractual	03	4.5							
12.	Commodities	04	.4							
13.	Equipment	05	2.6							
14.	Other									
15.	TOTAL COST		20.9							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		C.F. Match 1003								
18.		General Funds 1004		20.9						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY KEY NUMBER _____										

**REQUEST FOR
NEW POSITION**

AGENCY Health and Social Services
Social and Economic Assistance
 PROGRAM for the General Population

 BRU Social Services

 COMPONENT Southcentral Region

Page 2 of 2
 Revised Date _____

FY 86

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

CSSB 21 (HESS) / HLB 88

"An Act relating to the protection of children; and amending Rules 504, 505, and 506, Alaska Rules of Evidence, and Rule 6(r), Alaska Rules of Criminal Procedure; and providing for an effective date."

The ~~Council on Domestic Violence and Sexual Assault~~ (Council) is commenting upon those sections of CSSB21 (HESS) that directly affect the persons or programs the Council serves. The Council feels that other agencies and individuals have more information about the needs for sections not commented upon.

Section 3. The Council supports the clarification and strengthening of AS 11.61.125(a) concerning child pornography. It is known that a large percentage of perpetrators of child sexual assault receive and utilize child pornography, and it is obvious that children who are presented in pornographic materials are victimized. Therefore, the Council feels that society should take the necessary steps to inhibit distribution of child pornography.

Section 4. The Council supports extending the statute of limitations in child prostitution cases and clarifying the extension of the statute of limitations in child sexual assault cases. As in child sexual assault, a child induced or forced into prostitution might be dependent upon a perpetrator or not have the information or wherewithal necessary to report the crime until he/she is older and more self confident. These crimes should receive the scrutiny of the criminal justice system even though they weren't reported immediately.

Section 5. The Council supports the allowance of hearsay evidence in grand jury proceedings for child sexual assault cases. Many victims of child sexual assault are too young to withstand the rigors of the proceedings or to be effective witnesses. Yet their disclosure of sexual assault to police officers and other individuals in less threatening circumstances should be available for consideration. Children often block out their very negative experiences and cannot remember specifics of the experience, particularly under pressure. These children deserve the protection of the criminal justice system as much as older, more articulate individuals.

The U.S. Attorney General's Task Force on Family Violence, which heard testimony in six U.S. cities, reviewed state statutes and researched issues, has recommended that hearsay evidence be allowed in preliminary hearings so the child is not required to testify repeatedly. To quote the Task Force Report:

"To enable children to more easily and effectively relate the abuse they have suffered, prosecutors should adopt special procedures for child abuse and molestation cases.

At the preliminary hearing the court considers only whether the evidence is sufficient to go forward with prosecution. The prosecutor should not require the child to testify in person. Consistent with state procedures, a videotaped statement, testimony by the child to a law enforcement investigator, or other such presentations should be adequate. If the state rules of procedure do not provide for such presentation, the prosecuting offices should work with concerned citizen groups and lawmakers to modify the rules of procedure to make such a presentation possible."

Section 6. The Council supports including child sexual assault cases in the rape shield law. A victim's past sexual conduct should not be admissible in court. This is as important for child victims as adult victims. Child sexual assault often makes victims more vulnerable to repeated assaults by adults in power; more knowledgeable and interested in sex and more sexually active than children who have not been victimized. Therefore, a child should be protected from further victimization by the court in making this information public. If it is necessary to admit such evidence, it can be decided by the judge.

Sections 7,8, & 9. The Council supports these sections which expands the crimes that may be covered by background checks and includes checks for outstanding warrants. The additional crimes included are pertinent when screening applicants who will work with children. A recent research project on child sex rings and the production of pornography within these rings showed that almost half of the offenders used their occupation as the major access route to child victims. The offenders in this category included teachers (nursery school, grammar and junior high levels) a city health physician, an engineer, a school bus driver, a camp counselor, a photographer, a gas station owner and scout leaders. Although expanding this definition does not address all people who have responsibility for children, it provides additional important information for some of the major employers.

Section 15. The Council believes it's necessary to define sexual abuse in AS 47 and supports this addition. The Council suggests that the word "female" be stricken from (C). Definition of gender is irrelevant in cases concerning children.

Section 17. The Council supports expanding and clarifying the list of people required to report child abuse. It is the responsibility of all of us, particularly professionals and workers listed in this amendment to AS 47.17, to protect children. The Council suggests that section (9) be reworded to say employees and volunteers of domestic violence and sexual assault programs or crisis shelters or that (9) be removed and this language be added to the definition of human service providers (3) which are defined in Section 25 of CSSB21 (HESS).

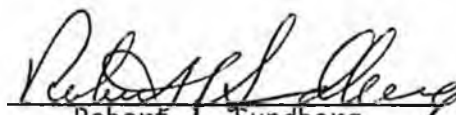
Section 18. The Council supports adding this section so children who have been abused by an individual not responsible for the child's welfare can be guaranteed protection under the law. Under existing statute, reporting and

protection is mandated only in cases where the abuse or neglect is caused by a person who is responsible for the child's welfare. Recent cases in Alaska and national studies show that non-familial child sexual assault is a major problem. In a study of child sexual abuse, conducted by Anne Russell an expert on adult and child sexual assault, 11 per cent of the perpetrators were total strangers, 29 per cent were relatives and 60 per cent were known but unrelated to the victim. Child victims of non-family assaults should be protected by the criminal justice system and receive support and treatment for the assaults.

Section 24. The Council suggests adding dental hygenist to the definition of "practitioner of the healing arts". Dental hygenists are in the same mid-level range of practice as nurse practitioners and physicians assistants. They frequently see patients not seen by dentists and see some patients on a more regular basis than dentists do.

Section 25. The Council supports Section 25. See comments for Section 17.

Section 26. The Council on Domestic Violence and Sexual Assault supports the concept of conducting background checks on people licensed and their employees described in AS 47.35. As discussed under Sections 7,8 and 9, often people in positions of authority over children take advantage of their positions and abuse children.


Robert J. Sundberg
Commissioner
Department of Public Safety

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

JAN 28 1985

*Child
Sexual
Assault*

January 25, 1985

The Alaska Network on Domestic Violence and Sexual Assault, a non-profit corporation, was established in 1977 to facilitate coordination of domestic violence and sexual assault services on a statewide basis. The Network represents 20 domestic violence and sexual assault programs.

Network programs have been involved in the prevention, intervention, and treatment of child sexual assault through community education and public awareness efforts, curriculum development and implementation, therapeutic counseling services, coordination with social service and criminal justice agencies, and legislative advocacy.

In June 1984 the Network formed a Child Sexual Assault Task Force for purposes of reviewing currently applied policies and practices to determine their appropriateness and the consistency of their application. The work product of the Task Force is the attached Summation of Major Issues Arising in Handling Child Sexual Assault Incest Cases and Recommendations for Resolution.

The Summation, which deals exclusively with child sexual assault perpetrated by a family member, outlines "ideal" policies and practices, those which we feel should be implemented in order to achieve the most favorable outcome. Some of these policies and practices have been implemented by some agencies in some communities; others are either inconsistently applied or not applied at all.

It is the Network's intention that the policies and practices detailed in the Summation be adopted by all agencies involved with child sexual assault cases. It is our firm belief that coordinated and comprehensive education, prevention, intervention, and treatment efforts will positively impact the high incidence of child sexual assault in our state.

We welcome your comments on this report, and suggest that you contact Ruth Lister, WICCA, Inc., Fairbanks (452-2293) or Rosemary Murray, Alaska Women's Resource Center, Anchorage (276-0528) to provide input or obtain additional information.

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

JAN 28 1985

SUMMATION OF MAJOR ISSUES ARISING IN HANDLING CHILD SEXUAL ASSAULT INCEST CASES & RECOMMENDATIONS FOR RESOLUTION

Prepared by:

Child Sexual Assault Task Force

Ruth Lister, WICCA, Inc.

Rosemary Murray, Alaska Women's Resource Center

Co-chairs

Summation of Major Issues Arising in Handling
Child Sexual Assault Incest Cases
& Recommendations for Resolution

In all phases of involvement with child sexual assault incest cases, the Network accepts the following as a philosophy: the child victim's disclosure is to be credited, the non-offending parent should be encouraged to be supportive and protective of the child victim, and responsibility for the assault always rests with the offender. All policy statements are predicated on that philosophy.

ISSUES	VICTIM	NON-OFFENDING PARENT	OFFENDER
1. <u>Intervention</u>	child reports sexual assault to non-offending parent and/or others; child is protected by DFYS or criminal intervention; if possible, child stays in the home; child receives immediate advocacy and support; number of interviews required of child should be minimized	assessment of non-offending parent's ability to protect & be supportive of child should be made; receives immediate advocacy to understand need to be supportive & protective of child; obtains TRO to protect child if needed	offender is investigated while child is protected; offender should be removed from the home if victim is living at home and non-offending parent is supportive
2. <u>Coordination</u>	DFYS and police/troopers coordinate investigation of victim's report of assault and provide protection of child; child is interviewed in private and is protected from onset of interview; initial and on-going advocacy should be provided by local or closest Network program or other advocacy agency	DFYS and police/troopers coordinate investigation of assault, with inclusion of advocate for non-offending parent, if requested; initial and on-going advocacy should be provided by local or closest Network program or other advocacy agency	DFYS and police/troopers coordinate investigation of offender; report of investigation is made to DA
	DFYS coordinates immediate contact with qualified treatment and/or advocacy program/people		
	Communities should develop protocols for purposes of protection of the child and to facilitate coordination. Community protocols should be reviewed on an annual basis and should include input from DFYS, law enforcement, criminal justice system, Network programs, mental health centers, schools, and other agencies involved in child sexual assault cases		

ISSUES

VICTIM

NON-OFFENDING PARENT

OFFENDER

3. SAFETY

the priority issue is insuring the victim's safety so s/he is not placed in a position to be re-victimized

support given to non-offending parent in protecting the victim and other siblings; provide counseling, shelter, and support when domestic violence has also occurred

strict controls over access to victim and other potential victims are to be applied in setting bail conditions, incarceration, treatment, work release, and probation; safety issues are to be adequately addressed throughout the criminal justice process; regular monitoring and safety checks should occur while offender is on probation and should be conducted by Probation Officer; probation for no less than 10 years is recommended

because of the possibility of suicide and violence to family, arrest should occur immediately

Victim and family members must receive full protection from time of report. Monitoring and treatment services should be available for at least two (2) years

4. IMPRISONMENT

victim is reassured that s/he is not responsible for the incarceration; victim is encouraged to understand that the offender is being punished for wrong-doing

provided support in assuming role as single parent while offender is in prison and/or treatment and out of the home; non-offending parent should not be required to comply with unreasonable and/or non-therapeutic court ordered obligations, such as visitation, etc.

punishment for crime through imprisonment; treatment and rehabilitation will be provided in a secure facility; treatment will continue if offender is in a work release program or halfway house

ISSUES	VICTIM	NON-OFFENDING PARENT	OFFENDER
5. <u>Treatment</u>	<p>receives therapy and information necessary to work through difficulties arising from assault and subsequent disruption in family after disclosure; individual/group treatment is made available</p> <p>victim is given choice, in her/his own time, whether or not to have contact with the offender; all contact between victim and offender must be supervised</p>	<p>receives support to work through any problems arising from single parenthood and any emotional/financial barriers faced in supporting child; individual/group treatment is made available</p>	<p>1) gets treatment with focus on sexual deviancy as first stage; 2) treatment provided in a secure facility and continuing treatment through community-based programs; 3) with continuation of treatment for sexual deviancy and at the request of the victim, later stages of treatment may focus on healing the relationship with the victim and other family members</p>

All treatment staff must have adequate training in treatment model, and all treatment must be predicated on the basis that the responsibility for the assault always rests with the offender. The well-being of the child victim must be the primary concern for all family members and treatment providers. All decisions regarding the potential, possible, and/or actual reuniting of the family should be made only when the child victim agrees and only when treatment focusing on sexual deviancy will be continuing. Contact between the child victim and the offender or any other person who is not supportive of the child should be restricted and should only occur under circumstances that are therapeutic for and agreed upon by the child

6. Rural Issues Local safe homes and support and advocacy must be immediately available to victims and non-offending parents. Community education and organizing, and prevention and education for children and adults, are high priorities. All personnel who are a part of prevention, intervention, and/or treatment in child sexual assault cases must be specifically trained in the dynamics of child sexual assault

7. Community Safety Through media, education, and community organizing, the harmful effects of child sexual assault and the need for protection are made clear. Age appropriate prevention information should be made available to all children

There is no known "cure" for sex offenders except their control over their own behavior. Provision and/or "completion" of a treatment or rehabilitation program should not be assumed to guarantee the safety of the child victim or potential victims

8. Adult Survivors Treatment should be made available, either free of charge or at reasonable sliding scale fees, for adult survivors of child sexual assault by qualified treatment staff

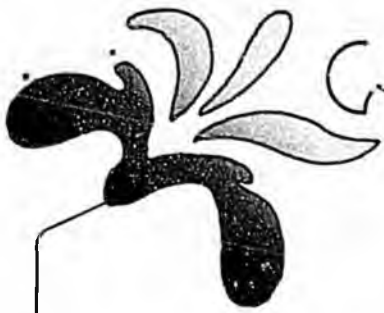
9. Training

All therapists providing treatment in the areas of child sexual assault must have a minimum of forty (40) hours of specialized training in victim, survivor, or offender treatment

Those working in the field without a master's degree in social work or counseling must, in addition to having received specialized training, be a staff member of a counseling agency or advocacy program and be supervised by a degreed person

Training in the dynamics of child sexual assault and appropriate recognition and intervention techniques should be made available to all who come into contact with victims, non-offending parents, and offenders. This training should, at the minimum, be provided to law enforcement personnel, criminal justice personnel, teachers, day care providers, social workers, and staff members of agencies providing counseling and advocacy

If limited funds are available for training, priority in allocation should be given to those agencies demonstrating a history of effective and broad based training experience and/or provision of service



WICCA

*file child abuse
shu same
me this
at jbx.
hemins*

March 28, 1985

Dear Senator Fahrenkamp,

The Fairbanks Child Sexual Abuse Task Force was formed in 1981 to address the many legal and treatment issues that are involved in cases of child sexual abuse. In the past four years the Task Force has developed effective and cooperative strategies for intervention, prosecution, and treatment.

Two meetings of the Legislative Committee of the Task Force and one meeting of the full body have addressed the proposed legislation in the House and Senate. We hope you will give our recommendations serious consideration. Changes in legislation will impact our work and, most importantly, the victims of sexual abuse whose interests we represent. Your concern and work in this area is much appreciated.

SB 3 and HB 67: Strongly support the need for hearsay evidence. The older the child the less likely it is that she/he will be unavailable but the tool should be available to the DA, if possible up to age 16.

SB 27: Strongly support.

SB 8: Strongly support.

SB 28: Strongly support.

SB 21: Support as changed.

SB 243/HB 88: See attached.

In addition we are concerned by some suggested changes to SB 243. Specifically, the present version of Section 11 should be retained. In Section 21 we would add to line 15 "or suspected nonaccidental."

If you have any questions please call me.

Sincerely,

Ruth Lister
Chair, Legislative Committee
Fairbanks Child Sexual Abuse Task Force

Legislative Committee
Fairbanks Child Sexual Abuse Task Force

Position on HB 88:

Section 1- no position

Section 2- oppose

AS 11.51.110

- overbroad: threatens low income, single parent family
- better ways of influencing situation with family
- creates additional risk and burden for child care providers

Section 5- support

- older the child the less likely she'll be unavailable to testify but should be a tool available to DA.

Section 7- should not be adopted- too broad.

Section 15- AS 47.10.290

- Add female breast and anus to both touching child and making child touch.

Section 17 and 24- Strike volunteers everywhere

Section 17 part 9- include domestic violence and sexual assault in definition of human services in #24.

Section 22- keep as is. Add increase in allowable years of probation from 5 to 10 years for sexual offenses.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

PUBLIC DEFENDER AGENCY

January 29, 1985

600 W. 5th Avenue, Suite 200
Anchorage, Alaska 99501
Phone: (907) 279-7541

Re: HB 88

Attention: Nancy Bennett

Max F. Gruenberg, Jr., Co Chair
House Committee on Health, Education
and Social Services
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Gruenberg:

Thank you for soliciting my comments on HB 88. This bill addresses a number of different aspects of the important issue of child protection. Many of the provisions will serve to insure that children receive greater protection from our laws. Following is an analysis of the sections of the bill which could cause some problems.

Section 2. This section creates a new crime of Endangering the Welfare of a Minor in the Second Degree. This offense involves exposing a child under 18 to circumstances creating a substantial risk of physical injury as well as sexual abuse. Of particular concern is that the caregiver need act only with criminal negligence, which could theoretically cover any home accident. This section could have broad application to parents and caregivers who accidentally allow children to be hurt, even if there is no intent to do so. Thus, if a caregiver negligently allows a child to crawl into a cabinet which contains toxic cleaning chemicals or allows a child to get too close to a hot wood stove, that caregiver's behavior may expose him or her to criminal prosecution. It should be noted that this would be a Class A misdemeanor, carrying up to one year of jail time.

Section 5. This provision allows the use of hearsay evidence at the grand jury in prosecutions for sexual offenses. A grand jury functions to screen prosecution evidence to determine whether enough

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OFFICE OF THE ATTORNEY GENERAL
JAN 30 1985

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evidence exists to charge a suspect with a felony. Because being charged with a felony involves a potential for stigma as well as incarceration prior to trial, the constitutional right to a grand jury indictment must be carefully guarded. Taken to its extreme, allowing unlimited hearsay evidence at a grand jury proceeding would reduce that proceeding to a police officer reading the police report to the grand jurors. Since grand jurors currently are able to judge for themselves the weight and credibility of live witnesses, the issue of introduction of hearsay at the grand jury should be evaluated carefully.

Current Alaska case law allows the introduction of hearsay testimony at a grand jury when a compelling justification exists. If the legislature wishes to create a statutory exception to protect young victims of sexual assault, it should be as narrow and as close to a compelling circumstance as possible.

I would suggest the following changes in this provision if a hearsay exception is to be created for these cases:

1.) The exception should apply only to very young victims (under the age of 10) since the ability and motive for such children to fabricate is less than that of older children and the trauma of testimony could be gravest for children of a tender age.

2.) The hearsay exception should only apply to the actual victim of the offense. The provision in HB 88 would cover offenses other than child sexual offenses, including many sexual assaults not involving minors. The statute as now drafted would allow hearsay testimony of any witness under the age of sixteen, even if that witness was not a victim and the offense involved an assault on an adult rather than a child. This may allow a broader erosion of the rule against hearsay at the grand jury than first appears on the surface of the bill.

3.) The provisions of this statute allow hearsay testimony to be admitted when a child is unavailable. The definition of unavailability includes situations where the child does not remember what he or she said earlier or the child has been declared incompetent to testify by a judge. Both of these definitions of unavailability raise concerns since the grand jury should have an opportunity to judge the credibility of a witness. If a witness cannot remember details, the grand jury should be aware of this fact. Furthermore, one of the chief reasons a child may be declared by a judge to be incompetent is that the child is not able to distinguish between truth and falsehood.

Section 12. This section reduces the time required to make a pre-disposition report available to counsel in a juvenile delinquency hearing. This provision will create practical problems. If a pre-disposition report recommends institutionalization of the minor, an attorney who represents the juvenile client will often search for a less restrictive alternative placement for the juvenile. Furthermore, the attorney may wish to consult with the client to determine whether factual discrepancies exist in the report and to correct those discrepancies. Receipt of the report only two working days prior to an important disposition hearing in a juvenile delinquency matter will not allow the juvenile's attorney adequate time to prepare for the disposition hearing or to work to locate alternatives to institutionalization.

Section 14. This section removes the requirement that parents of children who have been removed from the home be notified of that event within 12 hours. The substitution of "make reasonable efforts" to immediately notify parents could be a problem. If a child has been removed from his or her home by the State, parents may become frantic when they learn their child is missing if they do not receive immediate notification. The outside limit of 12 hours is certainly not unreasonable and should not be removed.

This section also allows the Department of Health and Social Services to extend the time of notification of the court of the emergency custody by allowing a filing to be made within 24 hours excluding weekends or holidays. The current time limit is 12 hours with no exclusions. In such a serious matter as removing a child from the custody of his or her parents, the court should be notified as quickly as possible. Allowing 24 hours plus the exclusion of weekends or holidays could result in the following scenario. If a child were picked up on the Friday prior to a three day holiday weekend, the court would not have to be notified until the following Tuesday, four full days after the removal of the child.

Section 15. This section expands the conduct which permits the state to remove a child from the home of his or her parents. Certainly, conduct which constitutes a sexual offense against a child under AS 11. is appropriately contained within this section. Unfortunately, this section expands the definition of "sexual abuse" to include touching of a child's thighs, buttocks, or groin, or the child's touching of those areas of the parent or another. Although this section attempts to exclude "reasonable touching" in the exercise of "normal caretaker responsibilities", it cannot possibly contemplate every type of beneficial touching which might occur. For example, if a caretaker were to place a small child on his shoulders so that the child could better see a parade, that conduct could be classified as "sexual abuse" under this definition if the State felt that this was not a "reasonable touching within normal caretaker responsibility". Declaring a child to be in

Max Gruenberg

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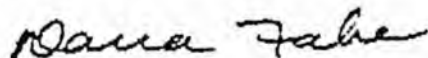
January 29, 1985

need of the state's protection is certainly necessary in many cases, but this expansion of the definition of sexual abuse will cause confusion, problems, and possible abuses of this function.

Section 23. Section 23 adds to the definition of child abuse or neglect the term "mental injury". This greatly broadens the category of children who may be declared in need of aid given the very broad definition of mental injury. Mental injury is defined as any psychological or intellectual injury evidenced by observable and substantial impairment in the child's ability to function within a normal range of performance and behavior. This definition appears to be much too broad, since many basically healthy child/parent relationships may still result in the child having some psychological or behavioral problems.

These are some of the concerns I have with HB 88. The fiscal impact of this legislation, in conjunction with the great increases in staffing requested in the operating budget of the Departments of Law and Health and Social Services as part of the Governor's Child Protection Package will require six new positions for this agency--two attorneys and four paralegals. Our detailed fiscal note and analysis for HB 88 is attached to this letter. Thank you again for asking for my comments on this bill. I also have been requested by your staff to testify on this bill during a teleconference from Anchorage on Wednesday, February 6, 1985 and plan to do so. Please let me know if I can be of any further assistance on this bill or on any other.

Very truly yours,



Dana Fabe
Public Defender

Enclosures

DF:cms

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/22/85

Page 1 of 9

REQUEST

Bill/Resolution No.: HB 88
 Title: "An Act relating to the protection of children."
 Sponsor: Rules Committee
 Requestor: House Judiciary
 Date of Request: 1/19 85

FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: _____
 Due Process _____
 Brk. Program or Subprogram Affected: _____
 Public Defender Agency _____

OPERATING REQUIREMENTS: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	
<u>PERSONNEL SERVICES</u>		347.7	363.6	390.7	374.1	378.0
<u>TRAVEL</u>		30.0	31.3	33.7	35.7	37.2
<u>CONSTRUCTION</u>		43.5	46.1	48.9	51.2	54.2
<u>INVENTORY</u>		6.5	6.9	7.3	7.7	8.2
<u>EQUIPMENT</u>		9.5	-0-	-0-	-0-	-0-
<u>LEGAL & SPECIAL RES.</u>						
<u>COMPL. CLAIMS</u>						
<u>OTHER SERVICES</u>						
<u>TOTAL</u>	-0-	437.2	453.4	480.6	509.3	530.9

FUNDING: (Thousands of Dollars)

<u>FUND 100</u>	-0-	437.2	453.4	480.6	509.3	530.9
<u>FUND 101</u>						
<u>OTHER</u>						
<u>TOTAL</u>						

POSITIONS:

<u>LEGISLATIVE</u>	-0-	6.0	6.0	6.0	6.0	6.0
<u>OTHER</u>						
<u>TOTAL</u>						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis

Prepared By: Dana Fabe, Public Defender Phone: 279-7541
 Division: Public Defender Agency Date: 1/22/85

Approved by Commissioner: Lisa Rudd Date: 1/30/85
 Agency: Department of Administration

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

House Bill 88
 Fiscal Note Analysis
 Prepared by Division of Public Defender Agency
 Department of Administration
January 22, 1985

This legislation has been introduced by the Governor as part of a total child protection package. The various sections of this legislation will increase the number and strength of prosecutions of persons charged with offenses against children, particularly sexual abuse of minors. As part of this child protection package, the Governor's operating budget requests new positions in the Department of Law and the Department of Health and Social services to accomplish this goal.

The increase of prosecutions in child sexual assault offenses will necessitate six new positions for this agency. These positions are the bare minimum necessary to handle the anticipated increase in workload and avoid inordinate delays in processing these cases through the courts:

Fiscal Analysis

Second Judicial District

Attorney III (Nome/Kotzebue)	
Personal Services	83.1
Travel	5.0
Contractual	
(office space, experts, etc.)	10.0
Supplies	2.0
Equipment	
(one time expenditure)	<u>2.0</u>
subtotal	102.1

Third Judicial District

Attorney IV (Anchorage)	70.8
Paralegal Asst II (Kenai)	45.5
Paralegal Asst II (Palmer)	44.2
Personal Services	160.5
Travel	15.0
Contractual	
(office space, experts, etc.)	17.0
Supplies	3.5
Equipment	
(one time expenditure)	<u>4.5</u>
subtotal	200.5

(continued)

House Bill 88
Fiscal Note Analysis
Prepared by Division of Public Defender Agency
Department of Administration
January 22, 1985

Fourth Judicial District

Paralegal Asst II (Fairbanks)	48.7	
Paralegal Asst II (Bethel)	55.4	
Personal Services		104.1
Travel		10.0
Contractual		
(office space, experts, etc.)		16.5
Supplies		1.0
Equipment		
(one time expenditure)		<u>3.0</u>
	subtotal	134.6
TOTAL ALL DISTRICT		437.2



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

February 11, 1985

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

Dear Senator Fahrenkamp:

The committee has asked the Alaska Court System to indicate its position regarding CSSB 21, an act relating to the protection of children.

The Alaska Court System takes no position about the substantive merits of this bill. However, I have attached a memorandum forwarded to me by Judge Victor Carlson, which expresses his individual viewpoint about the proposed legislation. Additionally, Judge Thomas Schulz has expressed his disagreement with proposed section 11 relating to curfew violations. He notes that these matters are handled informally in Ketchikan, an approach which he believes is preferable.

With regard to the fiscal impact of this bill, it is the understanding of the Alaska Court System that the Department of Law has requested nine new attorney positions in its budget to implement this legislation. Three of these attorneys would handle CINA cases (one each in Anchorage, Fairbanks and Bethel), and six would prosecute child protection offenses (two attorneys in Anchorage, and one each in Barrow, Kenai, Ketchikan and Fairbanks). The additional offenses prosecuted by attorneys in these latter positions will have a direct impact upon judicial workloads.

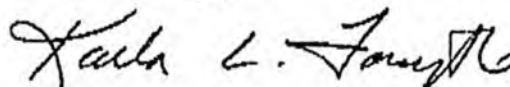
Judges statewide have indicated that this legislation will require additional judicial resources. It is the administrative director's assessment that assignment of additional retired judges on a pro tempore basis would provide adequate judicial coverage while minimizing the cost to the state. The attached fiscal note reflects a total expenditure of \$123,904 for two

years of pro tempore judge time, and support services of one in-court clerk.

Thank you for this opportunity to provide comments.

If there are any questions about the court system's position on this legislation, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karla L. Forsythe".

Karla L. Forsythe
General Counsel

KLF:emh

cc: Arthur H. Snowden, II

Memorandum

Alaska Court System

TO: Karla Forsythe
General Counsel

DATE : February 1, 1985

FROM: Victor D. Carlson
Superior Court Judge

SUBJECT: House Bill No. 88,
Protection of Children

In general I find the proposed legislation to be consistent with current practice and will promote the protection of children and the fair determination of cases relating to children. However, I have several specific comments:

1. Section 11 concerning traffic, etc. offenses. The phrase "in a district court" is redundant and serves no purpose, it is possible that a traffic offense would be prosecuted in the superior court and not just before a superior court judge sitting as a judge of the district court. Further, I question if it is the intent of the legislature to have children convicted of traffic, fish and game, and parks and recreation facilities violations sentenced to serve time in jail, e.g., on an operating a motor vehicle while under the influence of alcohol or drug. The current wording of this statute leaves this question and the amendments do not cure it.

→ 2. Section 12 concerning predisposition reports. Two working days for review of a report appears to be reasonable and if more time is needed, the attorney for the child can move for a continuance. Currently, the defense attorneys use the ten-day requirement to create undue strain on the probation officers, it is nearly impossible to prepare a predisposition report and have it typed and distributed within twenty days of disposition, the current rules provide that no more than thirty days are to elapse between adjudication and disposition.

3. Section 14 concerning notification of emergency custody. A note expressing legislative intent that every effort must be made to notify the custodian when a child is taken into custody including the leaving of a note at the place where custody was taken, informing a neighbor or relative and anything else that will help to inform the custodian should be appended. I believe the court should be informed each time a child is taken into custody without a court order and a sworn statement of probable cause made to the court. Requiring a report to the court with a statement of probable cause will tend to police the discretion of the social workers. The only other policing technique is the civil suit for damages which is generally ineffective.

VDC:rw
Adm. F-1
Rev. 2-73

V.D.C.

HOUSE BILL 88

FISCAL NOTE ANALYSIS

Judges statewide have indicated that this legislation will require additional judicial resources. It is the administrative director's assessment that assignment of additional judges on a pro tempore basis would provide adequate judicial coverage while minimizing the cost to the state.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 88/SB 21
 Title: An Act Relating to Child Protection
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: ALASKA COURT SYSTEM
 Program Category Affected: _____
 Administration of Justice
 BRU, Program or Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		123.9	131.3	139.2	147.6	156.5
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		123.9	131.3	139.2	147.6	156.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		123.9	131.3	139.2	147.6	156.5
FEDERAL FUNDS						
OTHER						
TOTAL		123.9	131.3	139.2	147.6	156.5

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME		3	3	3	3	3
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert G. Fisher, Fiscal Officer Phone: 264-0561
 Division: Alaska Court System Date: 2/4/85
 Approved by Commissioner: [Signature] Date: 2/4/85
 Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

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

ALASKA COURT SYSTEM
 HB 88 - CHILD PROTECTION
 FISCAL IMPACT

PERSONAL SERVICES:

	SALARY	BENEFITS	TOTAL COST
Pro Tem Superior Court Judge Ketchikan - 6 months	\$9,203	\$13,418	\$22,621
Pro Tem Superior Court Judge Kenai - 6 months	9,847	13,563	23,410
Pro Tem Superior Court Judge Anchorage - 12 months	18,405	26,836	45,241
In-Court Clerk (Range 12B) Anchorage - 12 months	24,516	8,116	32,632

Total Personal Services			\$123,904 *****

Subsequent fiscal years adjusted to reflect six percent inflation.

4330-111-1111-1111-1111
FEB 12 1985

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

CSSB 21 (HESS)

"An Act relating to the protection of children; and amending Rules 504, 505, and 506, Alaska Rules of Evidence, and Rule 6(r), Alaska Rules of Criminal Procedure; and providing for an effective date."

The Council on Domestic Violence and Sexual Assault (Council) is commenting upon those sections of CSSB21 (HESS) that directly affect the persons or programs the Council serves. The Council feels that other agencies and individuals have more information about the needs for sections not commented upon.

Section 3. The Council supports the clarification and strengthening of AS 11.61.125(a) concerning child pornography. It is known that a large percentage of perpetrators of child sexual assault receive and utilize child pornography, and it is obvious that children who are presented in pornographic materials are victimized. Therefore, the Council feels that society should take the necessary steps to inhibit distribution of child pornography.

Section 4. The Council supports extending the statute of limitations in child prostitution cases and clarifying the extension of the statute of limitations in child sexual assault cases. As in child sexual assault, a child induced or forced into prostitution might be dependent upon a perpetrator or not have the information or wherewithal necessary to report the crime until he/she is older and more self confident. These crimes should receive the scrutiny of the criminal justice system even though they weren't reported immediately.

Section 5. The Council supports the allowance of hearsay evidence in grand jury proceedings for child sexual assault cases. Many victims of child sexual assault are too young to withstand the rigors of the proceedings or to be effective witnesses. Yet their disclosure of sexual assault to police officers and other individuals in less threatening circumstances should be available for consideration. Children often block out their very negative experiences and cannot remember specifics of the experience, particularly under pressure. These children deserve the protection of the criminal justice system as much as older, more articulate individuals.

The U.S. Attorney General's Task Force on Family Violence, which heard testimony in six U.S. cities, reviewed state statutes and researched issues, has recommended that hearsay evidence be allowed in preliminary hearings so the child is not required to testify repeatedly. To quote the Task Force Report:

"To enable children to more easily and effectively relate the abuse they have suffered, prosecutors should adopt special procedures for child abuse and molestation cases.

At the preliminary hearing the court considers only whether the evidence is sufficient to go forward with prosecution. The prosecutor should not require the child to testify in person. Consistent with state procedures, a videotaped statement, testimony by the child to a law enforcement investigator, or other such presentations should be adequate. If the state rules of procedure do not provide for such presentation, the prosecuting offices should work with concerned citizen groups and lawmakers to modify the rules of procedure to make such a presentation possible."

Section 6. The Council supports including child sexual assault cases in the rape shield law. A victim's past sexual conduct should not be admissible in court. This is as important for child victims as adult victims. Child sexual assault often makes victims more vulnerable to repeated assaults by adults in power; more knowledgeable and interested in sex and more sexually active than children who have not been victimized. Therefore, a child should be protected from further victimization by the court in making this information public. If it is necessary to admit such evidence, it can be decided by the judge.

Sections 7,8, & 9. The Council supports these sections which expands the crimes that may be covered by background checks and includes checks for outstanding warrants. The additional crimes included are pertinent when screening applicants who will work with children. A recent research project on child sex rings and the production of pornography within these rings showed that almost half of the offenders used their occupation as the major access route to child victims. The offenders in this category included teachers (nursery school, grammar and junior high levels) a city health physician, an engineer, a school bus driver, a camp counselor, a photographer, a gas station owner and scout leaders. Although expanding this definition does not address all people who have responsibility for children, it provides additional important information for some of the major employers.

Section 15. The Council believes it's necessary to define sexual abuse in AS 47 and supports this addition. The Council suggests that the word "female" be stricken from (C). Definition of gender is irrelevant in cases concerning children.

Section 17. The Council supports expanding and clarifying the list of people required to report child abuse. It is the responsibility of all of us, particularly professionals and workers listed in this amendment to AS 47.17, to protect children. The Council suggests that section (9) be reworded to say employees and volunteers of domestic violence and sexual assault programs or crisis shelters or that (9) be removed and this language be added to the definition of human service providers (3) which are defined in Section 25 of CSSB21 (HESS).

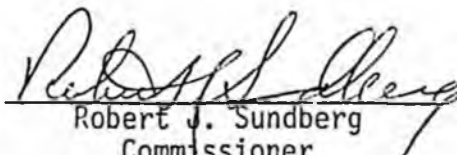
Section 18. The Council supports adding this section so children who have been abused by an individual not responsible for the child's welfare can be guaranteed protection under the law. Under existing statute, reporting and

protection is mandated only in cases where the abuse or neglect is caused by a person who is responsible for the child's welfare. Recent cases in Alaska and national studies show that non-familial child sexual assault is a major problem. In a study of child sexual abuse, conducted by Anne Russell an expert on adult and child sexual assault, 11 per cent of the perpetrators were total strangers, 29 per cent were relatives and 60 per cent were known but unrelated to the victim. Child victims of non-family assaults should be protected by the criminal justice system and receive support and treatment for the assaults.

Section 24. The Council suggests adding dental hygenist to the definition of "practitioner of the healing arts". Dental hygenists are in the same mid-level range of practice as nurse practitioners and physicians assistants. They frequently see patients not seen by dentists and see some patients on a more regular basis than dentists do.

Section 25. The Council supports Section 25. See comments for Section 17.

Section 26. The Council on Domestic Violence and Sexual Assault supports the concept of conducting background checks on people licensed and their employees described in AS 47.35. As discussed under Sections 7,8 and 9, often people in positions of authority over children take advantage of their positions and abuse children.


Robert J. Sundberg
Commissioner
Department of Public Safety

Selected State Legislation

**A Guide for Effective
State Laws to Protect Children**

January 1985

National Center for Missing & Exploited Children

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Foreword

Each year in this country hundreds of thousands of children disappear, and thousands more become the victims of criminal and sexual exploitation. Our efforts to prevent crimes against children and to treat cases of child victimization have not been adequate to assure the safety and protection of all children.

There has been an urgent demand from all walks of American life that initiatives be undertaken to address the problem of missing and exploited children. Effective legislation at the state level will have a dramatic impact on our society's ability to prevent crimes against children and to deal with the child victim of abduction or exploitation.

Is Your State Legislation Adequate?

The professionals who deal with cases of missing and exploited children have learned that it is critical that methods for dealing with child victimization be updated and improved. New programs are desperately needed to educate children and their families on prevention techniques. We have made good progress, but in every state we can do more to protect our children.

Some states have passed laws to meet the growing need for comprehensive legislation to address the issue of child victimization. Some state codes, however, remain seriously deficient in provisions protecting children. There is a critical need for state and local agencies to share information about the most effective and innovative child protection programs, many of which were made law in 1984.

By comparing the examples of legislation in this book with your own state code, you will be able to see where your statutes may need improvement. Each state, however, has its own systems for criminal, youth, and social services. Users of this selection should recognize that existing legislation serves a particular jurisdiction and that the examples and model legislation must be modified to meet each state's special needs.

The National Center for Missing and Exploited Children

The National Center for Missing and Exploited Children, in cooperative agreement with the U.S. Department of Justice, was chartered as a clearinghouse of information and assistance on the issues of missing children and the criminal and sexual exploitation of children. The Center's staff is made up of professionals and experts trained in the treatment of missing and exploited children.

The Center has received thousands of letters and calls from governors, legislators, and citizens requesting information about legislative measures that can be taken to protect our children. To develop this legislation package, the Center obtained copies of the existing effective state legislation and then analyzed and summarized it. In instances where there is no legislation addressing a certain child protection issue, this package includes basic principles or models for guidance.

The professionals who screened and analyzed this legislation constitute a multi-disciplinary team of attorneys, prosecutors, youth service providers, child advocates, law-enforcement officers, and others interested in the welfare and protection of children.

The Purpose of This Selection of State Legislation

This information package is designed to highlight some of the most effective state laws that concern child victimization. It is a resource intended for use by state legislators, governors, and state officials as well as all citizens concerned about protecting children.

This legislation package is not comprehensive. For example, it does not include any statistical data, nor does it cover all child protection issues or all existing state legislation in these areas. Rather, it contains a sampling of varied legislation from a number of states around the country. The samples chosen demonstrate how the complex issues of missing and exploited children are treated most effectively in each state.

How You Can Contribute

The National Center for Missing and Exploited Children will be expanding this legislation package as more information becomes available. We urge you to submit any information you may have about child protection issues and actions. Even if only a small part of the legislation seems new or worthwhile, please send it to the Center. We intend to act as a central resource in this area and would greatly appreciate any and all contributions.

A Message to the Citizen

There are a number of different ways in which you can be instrumental in effecting new laws in your state. The most common approach is to contact your state representatives or state senators and explain what provisions you feel are needed. Give them a copy of this selection of state laws. If they support the concepts in the laws, they will introduce a bill in your state legislature.

A second approach is to contact your governor, who can, in many instances, initiate legislation. Even when your state representative is introducing a bill, it is helpful to secure the backing of the governor. Remember, the governor is definitely in a position to influence legislation.

No matter which approach you take, though, it is wise to solicit the support of community organizations and local interest groups. You may want to organize a meeting between your state representatives and senators and those individuals and organizations that are working for the safety and protection of children.

Getting a bill through the state legislature is not a mystery. A few general rules apply. You should contact elected representatives from both sides of the legislature if your state has a two-part legislature. It is also wise to contact members of both parties: Laws to protect children should transcend party affiliation. In addition, bills that are cosponsored and have bipartisan support are the most likely to succeed.

Finally, you should make an effort to track the bill throughout the legislative process. Citizens can attend hearings, assess the bill's problems, and lobby for its passage by contacting state representatives who seem undecided about the issue. Furthermore, some states have provisions that allow citizens to comment directly on pending bills.

1. Missing Children

The problem of missing children is one of the most pressing concerns in our country today. While no one is sure of the exact numbers, it is estimated that at least 1,500,000 children are missing from their homes each year, many of whom end up abused or even victims of homicide.

The U.S. Congress highlighted this problem and took important steps to resolve it by passing the Missing Children Act in 1982 and, later, the Missing Children Assistance Act in 1984. Establishment of the National Center for Missing and Exploited Children is another example of the federal government's commitment to solving the problem of missing and exploited children.

Much more can be done on the state level, however. Comprehensive state legislation is critically needed to address the particular needs of missing and exploited children and to help solve problems that are unique to the state level.

State Boards and Clearinghouses

Several states have enacted important legislation to address the problem of missing and criminally or sexually exploited children. Such legislation includes creating a *state board or commission* with a variety of responsibilities, or establishing a *clearinghouse* or central registry for the state.

Kentucky The State of Kentucky (1984, H.B. 486) recently enacted comprehensive legislation addressing the problem of missing and exploited children in the state. The Kentucky statute creates a special state child abuse and exploitation prevention board within the office of the attorney general that does the following:

1. Coordinates and exchanges information on prevention programs.
2. Provides educational and public information seminars on prevention of child sexual abuse and exploitation.
3. Encourages the development of community prevention programs.
4. Recommends to the governor and the state assembly changes in state programs and policies that will reduce the problem of child sexual abuse and exploitation.
5. Provides prevention services to children and parents or guardians.
6. Authorizes a trust fund as a resource for a private nonprofit or public organization to develop or operate a prevention program.
7. Funds local task forces.

One of the most important provisions of the Kentucky statute is the creation of a state clearinghouse on missing children. Kentucky established a Kentucky Missing Child Information Center that serves as a central repository, or clearinghouse, of information about Kentucky children believed to be missing and children from other states believed to be located in Kentucky. The Missing Child Information Center is required to issue flyers with descriptive information about these children. And, a very important provision of this law is that within 24 hours after completing a missing chil-

Office of Child Advocacy
* Council on Domestic Violence
& Sexual Assault

missing children registry
Public Safety

dren report, the local law-enforcement agency is required to send the report to the Kentucky Missing Child Information Center and, from there, to the National Crime Information Center computer at the FBI.

The provisions of the Kentucky legislation on this state board appear on pages 4-7.

New Jersey Like Kentucky, the State of New Jersey (1984, Com. Sub. A. 1121, 1647) recently established a State Commission on Missing Persons. This Commission is mandated to provide state action plans and guidance for future legislation to address the problem of missing and exploited children. The New Jersey statute also establishes a Missing Persons Unit in the Department of Law and Public Safety, which does the following:

1. Coordinates, files, and investigates all missing children cases in the state and creates a central office on missing children.
2. Collects and maintains data on missing children and unidentified bodies in New Jersey and throughout the United States.
3. Coordinates with other states and with the federal government in investigating cases of missing children and unidentified bodies.
4. Provides special training to law-enforcement officers and medical examiners to help them handle cases of missing children and unidentified bodies.

Illinois The State of Illinois (1984, S.B. 1655) has also passed comprehensive legislation addressing the problem of missing and exploited children. The Illinois legislation established local units that do the following:

1. Establish a data system to collect and disseminate information that can assist agencies in recovering missing children.
2. Require law-enforcement agencies to furnish to the Department of Law Enforcement any information relating to sex crimes in their areas.
3. Set up education and prevention programs and provide prevention guidelines for children.

Florida, Kansas, and Minnesota Both Florida (S937.033) and Kansas (1984, S.B. 803) have established clearinghouses that allow parents to report cases of missing children to a central file. Florida has created a Missing Children Information Clearinghouse within the Department of Law Enforcement. The clearinghouse is a centralized file of information on missing children that allows any parent, guardian, or legal custodian to submit a missing children report. It requires all state and local law-enforcement agencies to submit a missing children report to the clearinghouse—information which is then transmitted to the National Crime Information Center of the FBI. Florida has also set up a statewide 1-800 telephone line to receive reports on missing children.

The clearinghouse maintained by the State of Kansas allows for the comparison of reports of unidentified deceased persons with reports of missing children. In addition, the Kansas statute mandates that any law-enforcement agency that fails to make reports of missing children is liable to pay a civil penalty.

The State of Minnesota (1984, H.F. 1428) has placed the responsibility upon the Commissioner of Public Safety to perform a variety of services, including the following:

1. Compiling annual statistics on the number of missing children.
2. Developing recommendations for better reporting and use of computer systems.
3. Providing the necessary equipment for the use of the National Crime Information Center by all local law-enforcement agencies.

Unidentified Deceased Persons

In addition to clearinghouses, there is a great need for state legislation to address the problem of *unidentified deceased persons*. These are people, many of whom are children, who are buried nameless in "John Doe" or "Jane Doe" graves each year.

The Missing Children Act, mentioned above, provides for a nationwide system to identify deceased persons. As a result, the FBI established an extremely sophisticated and comprehensive tracking system both for missing persons and for the unidentified dead. The section of the FBI that houses this operation is called the National Crime Information Center (NCIC). Each year the Center locates thousands of missing children and has also begun to identify deceased individuals who were buried as unknowns. It is critical that the federal systems have the support of each state.

Several states have enacted legislation to set up a centralized file of information crucial to identifying missing and deceased persons. The state file operates on the same principle as the National Crime Information Center computer. The reason for having such a file at the state level, however, is to ensure that all state and local agencies participate in this important program. The National Crime Information Center is an excellent resource, but states and communities must be required to *use* it, by state legislative mandate.

California (§11113, 11114), Michigan (1980, S.B. 961), and Georgia (Act 980) provide that dental records and other descriptive information on missing children be collected at the state level. In addition, the medical examiners and coroners in those states are required to report descriptive information concerning deceased persons who remain unidentified. This information is then correlated with the missing children information. State law, in addition, should require that this information be forwarded to the NCIC national files on missing or deceased individuals.

Eliminating Waiting Periods

A continuing problem with missing children cases is that official action is sometimes delayed because of 24-, 48-, or 72-hour *waiting periods* before an investigation is undertaken. As a result, precious hours are lost—often the most important hours in the investigation. Because of the critical nature of the first few hours of an investigation, some states, such as Iowa (1984, S.F. 517) and Kentucky (1984, H.B. 486), require prompt reporting and *investigating* procedures. Following is an excerpt from the Iowa legislation:

Sec. 3. Report on a Missing Person

1. A law enforcement agency in which a complaint of a missing person has been filed shall prepare, as soon as practicable, a report on a missing person. That report shall include, but is not limited to, the following:

- a. All information contained in the complaint on a missing person.
- b. All information or evidence gathered by a preliminary investigation, if one was made.
- c. A statement, by the law enforcement officer in charge, setting forth that officer's assessment of the case based upon all evidence and information received.
- d. An explanation of the next steps to be taken by the law enforcement agency filing the report.

Sec. 4. Dissemination of Report. Upon completion of the report, a copy of the report shall be forwarded to:

1. All law enforcement agencies having jurisdiction of the location in which the missing person lives or was last seen.
2. All law enforcement agencies considered to be potentially involved by the law enforcement agency filing the report.
3. All law enforcement agencies which the complainant requests the report to be sent to, if the request is reasonable in light of the information contained in the report.

4. Any law enforcement agency requesting a copy of the missing person report.

Requiring Data Entry into the National Computer

Nationwide surveys indicate that not all law-enforcement agencies regularly relay descriptive information about missing children to the appropriate state agency or enter it into the National Crime Information Center (NCIC) computer operated by the FBI. Such data entry into the NCIC computer is critical to ensure an effective nationwide distribution of information on a missing child and to compare missing children data with the records of the unidentified dead.

Both Texas (1983, H.B. 2333) and Minnesota (1984, H.F. 1428) have mandated that appropriate information about missing persons be shared promptly with the FBI National Crime Information Center computer. Minnesota requires that law-enforcement agencies, after a preliminary investigation, immediately enter descriptive information on missing children into the NCIC computer and also requires prompt notification to NCIC when the child is located. Following is an excerpt from the Minnesota legislation:

Sec. 3. [299C.53]

Subdivision 1. Upon receiving a report of a child believed to be missing, a law enforcement agency shall conduct a preliminary investigation to determine whether the child is missing. If the child is determined to be missing, the agency shall immediately enter identifying and descriptive information about the child through the CJIS into the NCIC computer. Law enforcement agencies having direct access to the CJIS and the NCIC computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the systems.

Subd. 2. Immediately after a missing child is located, the law enforcement agency which located or returned the missing child shall notify the law enforcement agency having jurisdiction over the investigation, and that agency shall cancel the entry from the NCIC computer.

The Texas legislation also requires that every law-enforcement agency provide to the FBI any information that would assist in locating and identifying missing children.

Kentucky Legislation

Following are sections of the Kentucky legislation referred to in the text.

(H.B. 486)

ACT relating to sexually abused, missing and exploited children, including those persons who commit offenses relating thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) As used in Section 1 through 9 of this Act:

(a) "Child" means a person under eighteen (18) years of age;

(b) "Child sexual abuse and exploitation" means harm to a child's health or welfare by any person, responsible or not for the child's health or welfare, which harm occurs or is threatened through nonaccidental sexual contact which includes violations of KRS 510.040 to 510.150, 530.020, 530.070, 531.310, 531.320 and 531.370;

(c) "Local task force" means an organization which meets the criteria described in Section 9 of this Act;

(d) "State board" means the state child sexual abuse and exploitation prevention board created in Section 3 of this Act;

(e) "Prevention program" means a system of direct provision of child sexual abuse and exploitation prevention services to a child, parent, or guardian, but shall not include research programs related to prevention of child sexual abuse and exploitation; and

(f) "Trust fund" means the child victims' trust fund established in the office of the state treasurer.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state child sexual abuse and exploitation prevention board is created as an autonomous agency within the office of the attorney general.

(2) The state board may appoint an executive director of the state board to exercise the powers and carry out the duties of the state board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board shall be composed of the following members:

(a) The secretary of the human resources cabinet, the secretary of finance and administration cabinet, the superintendent of public instruction, the commissioner of the state police, and the attorney general, or designees authorized to speak on their behalf; and

(b) Ten (10) public members appointed by the governor. It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services

(2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The attorney general shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the attorney general. The state board may elect other officers and committees as it considers appropriate.

(4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employees. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in Section 8 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The business which the state performs shall be conducted at a public meeting of the state board held in compliance with the open meetings act.

(2) A writing prepared, owned, used, in the possession of, or retained by the state board of the performance in an official function shall be made available to the public in compliance with the open records act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board shall do all of the following:

(a) Meet not less than twice annually at the call of the chairperson;

(b) One (1) year after the original appointment of the state board, and biennially thereafter, develop a state plan for the distribution of funds from the trust fund. In developing the plan, the state board shall review already existing prevention programs. The plan shall assure that an equal opportunity exists for establishment of prevention programs and receipt of trust fund money among all geographic areas in this state. The plan shall be transmitted to the clerk of the house of representatives, to the clerk of the senate, and to the governor;

(c) Provide for the coordination and exchange of information on the establishment and maintenance of prevention programs;

(d) Develop and publicize criteria for the receipt of trust fund money by eligible local task forces and eligible prevention programs;

(e) Review, approve, and monitor the expenditure of trust fund money by local task forces and prevention programs;

(f) Provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the prevention of child sexual abuse and exploitation; encourage professional persons and groups to recognize and deal with prevention of child sexual abuse and exploitation; encourage and coordinate the development of local task forces; make information about the prevention of child sexual abuse and exploitation available to the public and organizations and agencies which deal with problems of child sexual abuse and exploitation; and encourage the development of community prevention programs; and

(g) Establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the state board. In a year in which the biennial state plan is prepared, the evaluation shall be coordinated with the preparation of the state plan.

(2) The state board may enter into contracts with public or private agencies to fulfill the requirements of this section. The state board shall utilize existing state resources and staff of participating departments whenever practicable.

SECTION 6. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The state board may recommend to the governor and the general assembly changes in state programs, statutes, policies, budgets, and standards which will reduce the problem of child sexual abuse and exploitation, improve coordination among state agencies that provide prevention services and improve the condition of children and parents or guardians who are in need of prevention program services.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The state board may accept federal funds granted by the Congress or executive order for the purposes of this Act as well as gifts and donations from individuals, private organizations, or foundations. All funds received in the manner described in this section shall be transmitted to the state treasurer for deposit in the trust fund, and shall be made available for expenditure as appropriated by the general assembly.

SECTION 8. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board may authorize the disbursement of available money from the trust fund, upon legislative appropriations, for exclusively the following purposes, which are listed in the order of preference for expenditure:

(a) To fund a private nonprofit or public organization in the development or operation of a prevention program if at least all of the following conditions are met:

1. The appropriate local task force has reviewed and approved the program. This subparagraph does not apply if a local task force does not exist for the geographic area to be served by the program;

2. The organization demonstrates an ability to match through money fifty percent (50%) of the amount of any trust fund money received;

3. The organization demonstrates a willingness and ability to provide program models and consultation to organizations and communities regarding program development and maintenance; and

4. Other conditions that the state board may deem appropriate.

(b) To fund local task forces; and

(c) To fund the state board created in Section 2 of this Act for the actual and necessary operating expenses that the board incurs in performing its duties.

(2) Authorizations for disbursement of trust fund money under subsection (1)(c) of this section shall be kept at a minimum in furtherance of the primary purpose of the trust fund which is to disburse money under subsec-