

AMERICAN LIBRARY OF THE UNIVERSITY OF TORONTO

3973

SHEP

HB 88

849

For the purposes of this section, "counselor" is defined as a person who is employed primarily to assist, advise, or counsel people on their personal problems, their emotional health, or their mental health; or a person who, whether licensed or not, presents themselves to the public as being available to the public to assist, advise, or counsel people on their personal problems, their emotional health, or their mental health, and who receives a fee for their service.

proposed by the Rev. Steven Moore
Archdiocese of Anchorage

not adopted

SUMMARY OF FISCAL NOTES FOR CS HB 88 (FINANCE)

<u>Agency</u> DHSS	<u>Original Request</u> \$1992.7	<u>HFC Figure</u> \$1582.1
Law	\$1160.6 gen. funds 145.2 IARs	\$ 515.8 gen. funds 108.9 IARs
Public Defender	\$ 437.2	\$ 317.4
Public Advocate	\$ 296.1	\$ 218.3
Dom. Vio. Council	\$ 200.0	\$ 20.0
Court System	\$ 145.9	\$ 51.3
Troopers	\$ 0	\$ 0
TOTALS	\$4232.5 gen. funds 145.2 IARs	\$2704.9 gen. funds 108.9 IARs

no social work positions cut
Dept Law reduced from 22 to 11

W

SUMMARY OF H.F.C. REDUCTIONS TO CS HB 88 (FIN) FISCAL NOTES

1. DHSS

Personal services is funded for 10 months instead of 12, and all other lines are reduced by a maximum of 25%.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	1360.0	1133.0
Travel	122.2	91.6
Contractual	404.3	303.2
Supplies	19.0	14.3
Equipment	87.2	40.0
Total	1992.7	1582.0
Full Time	31.0	31.0
Part Time	8.0	8.0

2. Law

The following positions were eliminated or changed: 2 part time legal secretaries for the civil sections in Bethel and Fairbanks were eliminated. Prosecution reductions are as follows: one attorney IV in Anchorage, one secretary in Anchorage and the other attorney IV in Anchorage was reduced to an attorney II; one paralegal in Kenai and one attorney IV reduced to an attorney II in Kenai; one attorney in Fairbanks and the legal secretary in Fairbanks was reduced to part time; one paralegal in Kotzebue; one attorney III and one secretary in Barrow; one attorney III in Juneau; and one paralegal in Ketchikan. Also adjusted personal services as follows: two attorneys in the civil section are only partially funded with interagency receipts, the rest of their funding is from the general fund.

Miscellaneous other reductions taken as shown on the chart.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	938.2	441.0
Travel	77.5	42.5
Contractual	144.6	92.2
Supplies	70.5	30.0
Equipment	75.0	19.0
Total	1305.8	624.7
General Fund	1160.6	515.8
IARs	145.2	108.9
Full Time	19.0	9.0
Part Time	3.0	2.0

3. Public Defender

Eliminated one paralegal position in Palmer. Funded all remaining positions for 10 months. Took miscellaneous cuts in other lines.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	347.7	252.9
Travel	30.0	20.0
Contractual	43.5	36.5
Commodities	6.5	4.5
Equipment	9.5	3.5
Total	437.2	317.4
Full Time	6.0	5.0

4. Public Advocate

Positions funded at 10 months instead of 12. Miscellaneous reductions taken in other lines.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	155.1	129.3
Travel	15.0	0
Contractual	100.0	75.0
Supplies	2.0	0
Equipment	24.0	14.0
Total	296.1	218.3
Full Time	4.0	4.0

5. Council on Domestic Violence and Sexual Assault

No additional funds were provided for grants since the FY 86 budget includes a maintenance grant amount of \$4414.9M. Instead, \$20,000 is provided to upgrade the existing data clerk to a research analyst. It is important that program data be analyzed in order for the legislature to adequately judge funding needs from year to year. This funding recommendation comes from the most recent legislative audit of the program.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	0	20.0
Grants	200.0	0
Total	200.0	20.0
Full Time	.5	.5

6. Court System

Funds provided are for 10 months of retired judge time in Anchorage and 10 months for a part time in court clerk in Anchorage. Other funds are eliminated because of cuts in funding to other agencies.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	123.9	51.3
Travel	22.0	0
Total	145.9	51.3
Full Time	3.0	1.0
Part Time	0	1.0

7. Troopers

No funds were requested and no funds were provided.

CSHB 88 (FIN): Personal Services By Community
(does not include the Court System)

	FEKS	ANCH	PALMER	KETCH	JUNEAU	BETHEL	KOTZEBUE	KENAI	BARROW
HESS	1 clk typ 1 A.A. 1 Acct Clk 2 SW	1 SW 2 DCL 1 A.A. 1 Act clk 2 Clk Typ	-0-	1 SW 1 DCL 1 Clk Typ 1 A.A.	2 SW	-0-	-0-	2 SW	1 clk typ
CIVIL	1 Atty 1 PPT Sec	1 Atty 1 PPT Sec	-0-	-0-	-0-	1 PPT Sec 1 Atty	-0-	-0-	-0-
PROS	1 Atty 1 P/L 1 Sec part-time	1 Atty 1 P/L 1 Sec 1 Atty reduced to Atty II	1 P/L 1 Sec	1 P/L	1 Atty	-0-	1 P/L	reduced to 1 ATTY II 1 Atty 1 P/L	1 Atty 1 Sec
P.D.	1 P/L	1 Atty	1 P/L	-0-	-0-	1 P/L	1 Atty	1 P/L	-0-
P.A.	1 A. Atty 1 Sec	1 A. Atty 1 Clk Typ	-0-	-0-	-0-	-0-	-0-	-0-	-0-

Health & Social services

Valdez	1 Clk
Copper Center	1 Clk
Wasilla	1 Clk
Unalaska	1 Clk
Ordova	1 Clk
Billingham	1 Clk
Tomer	1 SW and 1 Clk Typ
Delta	1 SW and 1 Clk Typ
Valena	1 SW and 1 Clk Typ
Kenana	1 SS Assoc.
St. Yukon	1 Clk
raig	1 Clk Typ

Original

	T	PFT	PPT
DHSS	39	31	8
LAW	22	19	3
PD	6	6	0
PA	4	4	0
Total	71	60	11

Reduced

	T	PFT	PPT
DHSS	39	31	8
LAW	11	9	2
PD	5	5	0
PA	4	4	0
Total	59	49	10

= eliminated in Adams' proposed fiscal notes

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSIB 88 (Fin)
Title: Protection of children

Sponsor: Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Dept. Health & Social Serv.
Program Category Affected: Social Services

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		1133.0				
200 TRAVEL		91.6				
300 CONTRACTUAL		303.2				
400 SUPPLIES		14.3				
500 EQUIPMENT		40.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		1582.1				

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		1582.1				
FEDERAL FUNDS						
OTHER						
TOTAL		1582.1				

POSITIONS:

FULL-TIME		31				
PART-TIME		8				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Personal Services funded for 10 months instead of 12. All other lines funded at a maximum of 75% of original request.

Prepared By: Representative Adams - ^{APA} Chairman
Division: House Finance Committee

Phone: 465-3706
Date: 5/3/85

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Page 1

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 88 (Fin)
Title: Child Protection

Sponsor: Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Dept. Law
Program Category Affected: General Government

BRU, Program or Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		441.0				
200 TRAVEL		42.5				
300 CONTRACTUAL		92.2				
400 SUPPLIES		30.0				
500 EQUIPMENT		19.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		624.7				

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		515.8				
FEDERAL FUNDS						
OTHER		108.9				
TOTAL		624.7				

POSITIONS:

FULL-TIME		9				
PART-TIME		2				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attachment

APA

Prepared By: Representative Adams - Chairman
Division: House Finance Committee

Phone: 465-3706
Date: 5/3/85

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

Fiscal Note Analysis

CS HB 88 (Fin)

PERSONAL SERVICES

Eliminated the following positions: 2 PPT legal secretaries in Bethel and Fairbanks which were requested by the Civil Section. Prosecution reductions are: 1 Attorney IV in Anchorage, one secretary in Anchorage, and reduce the other Attorney IV to an Attorney II; 1 Paralegal in Kenai, and reduce Attorney IV to an Attorney II in Kenai; 1 Attorney in Fairbanks and reduce 1 Legal Secretary in Fairbanks to PPT; one paralegal in Kotzebue; one Attorney III and one Secretary in Barrow; one Attorney III in Juneau; and one paralegal in Ketchikan.

Also Adjusted personal services as follows: In the original fiscal note, two attorneys in the Civil Section were funded with interagency receipts from the Department of Health and Social Services. In this proposal, those attorneys would be funded 75% by interagency receipts and 25% by general funds. The Personal Services line has changed accordingly.

OTHER LINES

Miscellaneous reductions applied.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 88 (Fin)
Title: Protection of Children

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Due Process

Sponsor: Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

BRU, Program or Subprogram(s) Affected:
Public Defender Agency

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		252.9				
200 TRAVEL		20.0				
300 CONTRACTUAL		36.5				
400 SUPPLIES		4.5				
500 EQUIPMENT		3.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		317.4				

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		317.4				
FEDERAL FUNDS						
OTHER						
TOTAL		317.4				

POSITIONS:

FULL-TIME		5				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Eliminated 1 paralegal position in Palmer. Funded all remaining positions for 10 months. Took miscellaneous cuts in other lines.

Prepared By: Representative Adams - Chairman Phone: 465-3706
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 88 (Fin)
Title: Protection of Children

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Due Process

Sponsor: Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

BRU, Program or Subprogram(s) Affected:
Office of Public Advocacy

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		129.3				
200 TRAVEL		-0-				
300 CONTRACTUAL		75.0				
400 SUPPLIES		-0-				
500 EQUIPMENT		14.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		218.3				

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		218.3				
FEDERAL FUNDS						
OTHER						
TOTAL		218.3				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Positions funded for 10 months instead of 12. Miscellaneous cuts applied to other lines.

Prepared By: Representative Adams - Chairman Phone: 665-3706
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 88 (Fin)
Title: Protection of Children

Sponsor: Rules/Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: _____
Administration of Justice
BRU, Program or Subprogram(s) Affected: _____
Council on Domestic Violence and Sexual Assault

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		20.0				
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		-0-				
800 MISCELLANEOUS						
TOTAL OPERATING		20.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		20.0				
FEDERAL FUNDS						
OTHER						
TOTAL		20.0				

POSITIONS:

FULL-TIME		1/2				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary. The personal services funds are to be used to upgrade the existing data clerk position to a research analyst position. This position will analyze as well as record data. This function is important to proper legislative analysis of the Council and appropriate funding needs.

APA

Prepared By: Representative Adams - Chairman Phone: 465-3706
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/resolution No.: CSHB 88 (Fin)
Title: Protection of Children

Sponsor: Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

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						
200 TRAVEL		51.3				
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		51.3				

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		51.3				
FEDERAL FUNDS						
OTHER						
TOTAL		51.3				

POSITIONS:

FULL-TIME		1				
PART-TIME		1				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached.

APA

Prepared By: Representative Adams - Chairman Phone: 465-3706
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

Fiscal Note Analysis:

CS HB 98 (Fin)

<u>PERSONAL SERVICES:</u>	<u>SALARY</u>	<u>BENEFITS</u>	<u>TOTAL COST</u>
Pro Tem Superior Court Judge Anchorage 10 Months	15,338	22,363	37,701
In-Court Clerk (Range 23 B) Anchorage 10 Months, Part Time	10,215	3,382	13,597 -----
	<u>TOTAL PERSONAL SERVICES:</u>		\$51,298

Subsequent fiscal years adjusted to reflect six percent inflation.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 88 (Fin)
Title: Protection of Children

Sponsor: Rules Committee
Requestor: House Finance Committee
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: _____
Administration of Justice
BRU, Program or Subprogram(s) Affected:
1) Alaska State Troopers &
2) Administration (Records & Identification)

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-				

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

APA

Prepared By: Representative Adams - Chairman Phone: 465-3706
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: _____ Date: _____
Agency: _____

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

7/1/84

Sandra

MAJOR DIFFERENCES BETWEEN HB 88 (HOUSE-PASSED VERSION) AND SENATE HEARS C.S. SB 243:

Deletes sections on endangering welfare of minor. Were controversial because vague; parents and women's groups particularly concerned about how "failure to provide necessary food and clothing" could be interpreted.

This removes conflict between SB 298 child st. Rule 17(c) which says anyone can file on child's behalf.

Adds language from SB 29 redefining domestic violence for purposes of injunctive relief to include parents, grandparents, children and grandchildren (currently limited to spouse).

Deletes provision that would have extended the time the prosecutors have to prepare a predisposition report, thus limiting the time the defense attorney has for review. Public defenders were opposed. (HB 88 leaves at existing 10 days; SB 243 reduced to 6; Governor's request was 2.)

Deletes definition of sexual abuse in Child in Need of Aid statute. Was controversial because vague.

List of persons required to report incidents of abuse differs by exempting volunteers (at schools and of domestic violence programs) from the reporting requirement, and limiting school employees to teachers and administrative staff (SB 243 was all school employees). Was concern that making volunteers criminally liable would be a deterrent to volunteering.

Deletes language that would have established a dual reporting system -- intrafamily abuses to DH&SS, others to Dept. Law. By law, DH&SS only handles intrafamily abuses and refers to Law any other reports they receive. This would not change. Dual reporting was felt to be confusing to the public; reality is they'll dial 911 or call whoever they're aware of if they want to report a crime.

Doesn't require developer of pornographic film to allow police access to pornographic material. Material can be obtained under a warrant, and House Judiciary felt this provided better protection of individual rights.

Doesn't define "judicial" to mean "civil or criminal" for purposes of immunity and confidentiality. Concern is that this definition would allow investigation reports to be used at court proceedings; nothing could be held confidential.

Requires that the court be notified within 12 hours, rather than 24 hours as under SB 243, when a child is taken into custody.

FISCAL NOTES reduced from \$4.2 million to \$2.7 million. All 35 social workers funded, 11 out of 22 prosecutors, 5 out of 6 pub defenders, all 4 public advocates.

BACKGROUND CHECKS will be studied during interim.... *As part review of entire criminal justice information syst*

Bettye

LATEST WORD HB 88 (OMNIBUS CHILD CARE BILL) WILL BE ON TODAY'S SUPPLEMENTAL CALENDAR. THERE IS A SENATE FINANCE COMMITTEE SUBSTITUTE WHICH FAIKS WILL BE PREPARED TO CARRY.

IN BRIEF, THIS IS THE PRODUCT OF A CONCERTED GROUP EFFORT AND THOROUGH COMMITTEE WORK. IT SEEMS TO BE NON-CONTROVERSIAL AT THIS POINT BECAUSE OF THE AMENDMENTS THAT HAVE BEEN MADE ALONG THE WAY.

NOTE: THE REFERENCE TO PRIVATE AND PUBLIC SCHOOLS FOR REPORTING PURPOSES IS STILL IN THE BILL. FAIKS ACCEPTED THIS IN FINANCE COMMITTEE.

WHAT'S ESSENTIAL ARE THE FISCAL NOTES NOW ATTACHED TO THIS BILL -- FOR SOCIAL WORKERS, PROSECUTORS, PUBLIC DEFENDERS, GUARDIANS AD LITEM, JUDGES, AND TO THE COUNCIL ON DOMESTIC VIOLENCE FOR TREATMENT AND COUNSELING. HOUSE AND SENATE FIGURES DO NOT MATCH:

HOUSE FIGURE \$2.7 MILLION

SENATE FIGURE \$2.5 MILLION

(THE SENATE FIGURE CUTS 3 SOCIAL WORKERS BUT GIVES THE COUNCIL ON DOMESTIC VIOLENCE \$100,000 MORE THAN THE HOUSE VERSION.)

THE SENSE IS THAT THE HOUSE WILL CONCUR IN THE SENATE AMENDMENTS TO THE BILL; FISCAL NOTES WILL ULTIMATELY BE DECIDED IN THE OPERATING BUDGET.

BRIEF SECTIONAL ATTACHED. SENATE FINANCE C.S. WAS ONLY PREPARED THIS MORNING.

services, and resident family members, as appropriate. The administrator shall show evidence of being a responsible, mature individual of reputable character. The division will determine compliance with this section by

(1) observation of the administrator's attention to management details, skills in human interaction, and exercise of judgement; and

(2) evaluation of three references, one of which must be from a supervisor in previous work experience, which provides evidence of the administrator's competency in program management.

(b) The administrator shall have experience in the human services field appropriate to the size and function of the facility. An individual who administers a facility which serves 15 or fewer residents shall have two years of experience in the human services field. An individual who administers a facility which serves 16 or more residents shall have three years of experience in the human services field.

(c) An administrator shall also meet the care-provider qualifications in 7 AAC 50.037.

(d) An individual may not be an administrator of a facility if the individual is under indictment or has been convicted of a felony or has had a child adjudicated as a child in need of aid within the last five years. The division will, in its discretion, require a release to review law enforcement records for each administrator. In this subsection, "child in need of aid" means a child who has been adjudicated a dependent child under to AS 47.10.010 or under a similar statute in another state or jurisdiction. (Eff. 5/20/82, Reg. 82)

Authority: AS 47.35.030

7 AAC 50.036. ARTICLES OF INCORPORATION. Repealed 5/20/82.

7 AAC 50.037. CAREPROVIDER QUALIFICATIONS. (a) A careprovider shall be at least 19 years of age.

(b) A careprovider shall furnish the facility with the names, addresses, and telephone numbers of three persons, unrelated to the

careprovider, who will provide character references for the careprovider.

(c) A careprovider shall be a responsible, mature individual of reputable character who exercises sound judgement and displays the capacity to provide good care for children.

(d) A careprovider shall possess tuberculin clearance before contact with children in a facility. The tuberculin clearance must be renewed annually.

(e) A careprovider shall be free from physical or mental disease, including alcoholism or drug abuse, which threatens the health and well-being of children in a facility.

(f) The division will assess compliance with this section through observation of the care-provider, evaluation of references, and review of performance evaluations.

(g) A careprovider who has major supervisory responsibility for program and child care, including one who works without a supervisor on the premises, shall have one year of experience in the human services field. (Eff. 5/20/82, Reg. 82)

Authority: AS 47.35.030

7 AAC 50.038. GOVERNING BOARD. Repealed 5/20/82.

7 AAC 50.039. STAFFING REQUIREMENTS. (a) A facility must have enough careproviders on duty in the facility to provide for the care and safety of children and to otherwise meet the requirements of 7 AAC 50.001 - 7 AAC 50.073.

(b) A careprovider shall be on duty in a facility whenever one or more children are present.

(c) At least one staff member who is able to read and write the English language shall be on duty at a facility at all times.

(d) Except as provided in (e) of this section, the staff-to-child ratio in a facility must be as follows:

(1) one careprovider for every six children in care during waking hours; and

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2
REQUEST
Bill/Resolution No.: HB 88, No.1
Title: Child Protection

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected:
1) Alaska State Troopers and
2) Administration (Records & Identification)

Sponsor: Rules Committee
Requestor: Governor's Office
Date of Request: 1/17/85

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		214.8	225.5	236.8	248.6	251.0
200 TRAVEL		6.0	6.3	6.6	7.0	7.3
300 CONTRACTUAL		2.9	3.1	3.2	3.4	3.5
400 SUPPLIES		5.0	5.3	5.5	5.8	6.1
500 EQUIPMENT		0.7	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		229.4	240.2	252.1	264.8	277.9
CAPITAL		0				
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND		229.4	240.2	252.1	264.8	277.9
FEDERAL FUNDS						
OTHER						
TOTAL		229.4	240.2	252.1	264.8	277.9

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME		1.0	1.0	1.0	1.0	1.0
TEMPORARY		0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

The reporting, investigative and follow-up functions will require increase in Staff. It is estimated that 3 Troopers (Statewide) at Range 76 will be needed at a total cost of \$72.6 per position in FY86.

Affirmative and detailed reporting requirements by the Records & Identification Section of the Division of Administrative Services is estimated to need one-half

Prepared By: Jos Mapranath Phone: 465-4336
Division: Administrative Services Date: 1/17/85

Approved by Commissioner: [Signature] Date: 1/17/85
Agency: Public Safety

Distribution (by Agency preparing fiscal note):

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

7/1/84

ANALYSIS, con't

HB 88, No. 1, Page 2 of 2

of a position at the level of Range 9, Clerk IV.

For subsequent years, an inflation of 5 percent is calculated.



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~~ing~~ 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.

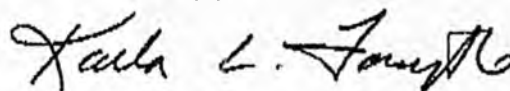
Judges statewide have indicated that this legislation will require additional judicial resources. It is the administrative director's assessment that assignment of additional retired judges on a pro tempore basis would provide adequate judicial coverage while minimizing the cost to the state. The attached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



Karla L. Forsythe
General Counsel

KLF:amh

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.

Alaska State Legislature

Advisory Council Members
Senator Bennett, Chairman
Senator Kerttula
Senator Abood
Senator Sackett



1024 W. 6th Avenue, Suite 201
Anchorage, Alaska 99501
Phone: (907) 274-1426

SENATE ADVISORY COUNCIL

M E M O R A N D U M

TO: SANDRA SCHUBERT-PENCE
FROM: ELIZABETH J. HICKERSON *efh*
SUBJECT: JUDICIAL TRAINING ON CHILD ABUSE
DATE: MARCH 13, 1985

I spoke to Justice Rabinowitz, Chief Justice of the Alaska Supreme Court, regarding judicial training on child abuse. Justice Rabinowitz supervises the training for all justices, judges and magistrates in Alaska. He stated that in the last year, the Judicial Conference has included training on domestic violence and will be including a session on child abuse this spring.

Justice Rabinowitz remarked that he welcomed any and all assistance on appropriate training for the judiciary. I suggested that the Council on Domestic Violence and Sexual *435b* Assault would be the appropriate agency to review and/or provide training for the judiciary. I have not related this to Barbara Miklos at the Council, but thought a letter from the Legislature in support of continued training might be appropriate.

Attached is a publication on judicial training which looks rather comprehensive. I don't know whether the Senate is interested in ordering a copy of this or not, however, the Senate Advisory Council could order a copy for their library. Contact person is Cheryl Roser at SAC in Juneau.

*training came about thru Netusik -
community based programs are most appropriate
to provide training
Rabinowitz should contact Miklos - set something up
for May.*

NEWS NOTES

FOSTER CARE — TAXATION

The Internal Revenue Service on January 31 proposed regulations explaining how foster parents should go about excluding from their gross income special payments they receive from state agencies to help support handicapped children. The special tax exclusion was enacted by Congress in 1983. Payments qualifying for the exclusion must be made by either state agencies or child placement centers and cannot exceed the expense of caring for the handicapped child in the foster parents' home. Payments for providing emergency shelter are not eligible for the exclusion, according to the regulations. The payments must be earmarked as compensation for providing the additional care of a child who suffers from a physical, mental, or emotional handicap. The agency making the payments can designate them as qualified for the tax exclusion by either sending the foster parents a letter or a separate check issued under a program to provide what the IRS calls "difficulty-of-care payments." Comments on the rules and requests for a public hearing should be sent by April 2, 1985 to: Commissioner of Internal Revenue (Attn: CC:LR:T LR-83-83), 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

PUBLICATIONS — CHILD ABUSE

The ABA National Legal Resource Center for Child Advocacy and Protection, assisted by The National Center for State Courts, has developed a manual to assist trial judges in making decisions in child abuse cases. Titled *Child Abuse and Neglect Litigation: A Manual for Judges*, the manual focuses on the practical aspects of a judge's work in child-protection litigation. Judges preside over some 200,000 child abuse and neglect cases each year, at all levels of the legal system. The manual examines the role of judges and their influence and control over such proceedings, and supplies the answers to such questions as: Did abuse or neglect actually occur? Where will the child live? What services will the family receive? When can state intervention into the family unit cease? Should parental rights be terminat-

ed? Each section of the manual is accompanied by a set of supporting readings that are taken from proposed professional standards, law review articles, books, court rules, attorney and social worker guides, and other written aids developed for use in individual jurisdictions. Separate chapters deal with such practical subjects as "Representation of the Child," "Legal Rights of Involved Parents," "Criminal Prosecution of Abusing Parents," and "Coping with the Media and Hysteria." Copies of the 272-page softcover publication can be obtained for \$22 from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161; or telephone (703) 487-4650. (Order Number SHR-001443/KAU)

PUBLICATIONS — DIVORCE

A recently published book, *How It Feels When Parents Divorce*, by Jill Kremenetz, a documentary photographer and author, uses two important techniques for uncovering the concerns of children of divorcing parents: photographs of the children, and interviews with them. Ms. Kremenetz is also author of two previous publications, *How It Feels When a Parent Dies*, and *How It Feels to be Adopted*, that make use of the same techniques to illustrate and enlighten the reader about family crises and the effects these disturbing events have upon children. The books have been hailed by educators, clergymen, and psychiatrists as invaluable contributions to their fields because of the author's ability to draw from children their truest feelings and thoughts. The nineteen children interviewed and portrayed in this latest book in the series speak with extraordinary honesty and tolerance, and with a remarkable absence of rationalization, illusion, or attempt to justify their own behavior in response to their situations. They reveal the whole range of their emotional responses to the profound disturbance of divorce and tell the reader what they think are the special responsibilities of divorcing parents. The 126-page, hardcover book is available for \$12.95 from Alfred A. Knopf, New York, N.Y.

SUPREME COURT PROCEEDINGS

The U.S. Supreme Court, on February 19, denied review in four family law cases. Also, two family law cases have recently been docketed with the Court.

REVIEW DENIED

CUSTODY

No. 84-969. **POURNARAS v. Pournaras**

Natural parent's rights.

Ruling below (Ohio CtApp. Cuyahoga Cty. 11/17/83):

11 FLR 1187

Ohio statute requiring that both parents request joint custody as condition precedent to court consideration of joint custody award is reasonable and constitutional; joint custody is not constitutionally protected parental right.

EQUITABLE DISTRIBUTION

No. 84-1191. **PULITZER v. PULITZER**

Property division—Due process.

Ruling below (Fla CtApp 4th Dist. 4/18/84):

adopted by HESS but not attached to final bill

Alaska State Legislature

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



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

Senate Committee on Health, Education and Social Services

LETTER OF INTENT

CS SB 243 (HESS)

It is the intent of the Legislature in enacting CS SB 243 (HESS), an act relating to the protection of children, that the rights of both children and parents be afforded equal protection under the law. Child abuse statistics throughout our state have reached crisis proportions, and the Legislature recognizes that the statutory revisions embodied in CS SB 243 (HESS) are necessarily broad to allow effective enforcement of our child protection statutes and to provide effective tools for preventing child victimization.

However, in developing CS SB 243 (HESS), it has become apparent that the solution to our current crisis is not solely legislative in nature. Proper training of the employees at whom these laws are directed is an integral component of the solution. Time and again members of the Legislature have received reports of state social workers, albeit well intended, who through professional zeal or a lack of proper judgment, have unnecessarily intervened in family affairs, even to the point of removing children from homes without proper cause. Parental attempts to rectify such situations have often proved futile, with devastating effects on both parents and child.

The Legislature is sensitive to the dramatic increase in social work caseloads over the last few years, and to the workload pressures state social workers are under. However, if we are to be successful in protecting the rights of both children and parents, efforts must be made to ensure that the critical decisions being made by social workers are responsible and appropriate.

The Legislature urges the Department of Health and Social Services to review its hiring and training practices for social workers, and to enhance them as necessary to ensure that employees are well qualified and that appropriate ongoing training is being provided. Competent, capable social workers will contribute much to the quality of service, and hence the quality of life, available to Alaska's children and their families.

Alaska State Legislature

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



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Senate Committee on Health, Education and Social Services

M E M O R A N D U M

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, March 26, 1985

DATE: March 25, 1985

On Tuesday, March 26, at 1:30 pm in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear five bills relating to child protection. As you know, several members of the legislature met early this session to devise a method of addressing the critical problem of child abuse in our state. A working group of committee staff was formed to review existing law and legislative proposals, and to evaluate recommendations by the National Center for Missing and Exploited Children. The following bills represent the results of that effort.

SB 3, Relating to the admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure.

Proposed CS SB 3 (HESS) would allow hearsay evidence to be admitted at grand jury in prosecutions for sexual assault, sexual abuse of a minor, and unlawful exploitation of a minor. The child must be under the age of 10, and the child must either testify before the grand jury or be unavailable as defined in the bill. An earlier version of this bill was heard by the Senate HESS Committee on January 24, 1985.

SB 8, Personal safety curriculum in public schools.

Proposed CS SB 8 (HESS) would urge expansion of existing health curricula to include the identification and prevention of child abuse, child abduction, neglect, sexual abuse, and domestic violence. This bill received a preliminary hearing by the Senate HESS committee on February 19, 1985. A letter of intent addressing development of curriculum guidelines by the Department of Education is attached.

SB 21, Relating to background checks on certain employees who come into contact with children.

Proposed CS SB 21 (HESS) would expand the type of conviction records that may be released to include all crimes that might pose a risk to children (as defined in the bill), and allow the release of outstanding warrants for these crimes. It would require a criminal record check on foster parents and persons seeking to adopt minors.

Mandatory checks on daycare employees are not provided for in the committee substitute. While interest in this concept remains high, many concerns exist as well. It is the intent of the committee Chairman to continue to work towards a resolution of this issue.

SB 86, Relating to runaway and missing minors; and to child abuse and child neglect.

Proposed CS SB 86 (HESS), would require that reports of missing or runaway children be taken immediately and within 24 hours entered into both the State (APSIN) and FBI (NCIC) computer systems. The bill would disallow housing of runaway or missing minors in jail facilities, and require that the legal custodian be immediately notified if the minor is taken into protective custody by the State.

SB 243, Relating to the protection of children.

SB 243, which is a revision of the Governor's HB 88, would make several changes to existing civil and criminal laws, and is intended to enhance the State's ability to protect children. The substance of this bill was heard by the committee on February 5, 1985.

Bill packets with background materials were distributed to all legislators last week. Additional packets are available from the Senate HESS Committee staff.

In addition to the child protection proposals, SB 208 will also be heard.

SB 208, Relating to the formation of federal transfer regional educational attendance areas in certain villages.

Federal transfer schools formerly funded through the BIA in the villages of Akiachak, Akiak, Tuluksak, Chevak, and Cheforvak will no longer receive federal funding after FY 85, and will become part of the state's educational system. SB 208 would allow each village to hold an election to determine to form its own regional educational attendance area (REAA). If the village did not so elect, the schools would become part of the REAA in which the village is located.

PL 98-63 (1983) served to transfer Mt. Edgecumbe and the 20 remaining BIA schools in Alaska to the state. Ten schools and Mt. Edgecumbe were transferred last year; the remaining 10 are being transferred this year. Of these, five have been BIA-operated, and the five addressed in SB 208 have been operating under contract to BIA under the authority of the Indian Self Determination and Education Assistance Act (PL 93-638).

Voice

Vol. 1, No. 1

January-February 1985

**CWLA
CRITTENTON
ORPSCCA**

BUDGET PROPOSES FOSTER CARE CAP AT \$485 MILLION

The President's FY 1986 budget proposals sent to Congress on Feb. 4, would "maintain States' entitlement to reimbursement" for foster care claims at the 1985 current estimate of \$485 million. This restriction would be for one year only, according to the budget document. Foster care has not previously been regarded as a State reimbursement entitlement but rather as the entitlement of eligible dependent children.

Additionally, the budget document says the Administration will be proposing legislation to improve incentives for States in future years to reduce the duration of children's stays in foster care. "A bonus system will be proposed for 1986 to reward States that resolve children's problems quickly, and return them to permanent homes."

The Administration proposes to freeze foster care, child welfare services and child welfare training at estimated 1985 levels in 1986.

Title XX Social Services is proposed for a return to \$2.7 billion in FY 1986 (minus the additional \$25 million for training and plus responsibility for the functions of the Community Services Block Grant which is proposed for termination). Medicaid is targeted for capping at \$22.2 billion (a \$1.3 billion reduction below current estimates for 1986). The budget states that, "to facilitate the transition to a capped program, legislation will be proposed to establish a one-time pool of \$300 million above 1986 expenditures to assist States with justifiable increases above their limit." In future years Medicaid benefits would be constrained by indexing the FY 1986 expenditure limit to the Medical Care Price Index.

continued on page 11

A NEW VOICE FOR CHILDREN

by David S. Liederman
Executive Director
Child Welfare League of America

With the beginning of 1985, we are launching our new comprehensive newsletter, *Children's Voice*. Never has there been a greater need for all of us to make our voices heard on behalf of children.

In my travels across this country, in meetings with agency executives, boards, staff, and advocates, I have found the commitment to serve and represent the interests of children and their families is alive and growing. The League will be a part of this growth by opening new communications.

Children's Voice will keep us all up to date on the most recent developments in the Congress, the Federal agencies and the State houses. Issues such as adoption, foster care, child care, feeding, AFDC, day care, child health and juvenile justice will be covered, as will adolescent parenting and the activities of the State child care associations.

Children's Voice incorporates the news formerly disseminated in *Child Welfare Planning Notes*, *The Crittenton Reporter*, *Perspectives*, and *ORPSCCA NEWS* from the Office of Regional, Provincial and State Child Care Associations.

Sent to CWLA members as part of the membership benefit package, *Children's Voice* is available to non-members by subscription at \$52 a year.

Send us your news and your comments. We are committed to opening new and exciting communications among child advocates and children's service agencies.

(in millions)	1984	1985	1986
Child Welfare Services	\$165	\$200	\$200
Child Welfare Training	4	4	4
Foster Care	478*	517*	485
Adoptior Assistance	27**	35*	42
Child Welfare R&D	10	12	9
Adoption Opportunities	2	2	1
Total	\$686	\$770	\$741

* Includes supplemental amounts equal in 1984 to \$38 million for prior year claims, and in 1985 to \$2 million for prior year claims and \$25 million for 1985 program costs.

** Includes supplemental amounts equal in 1984 to \$7 million for prior year claims and \$15 million for 1984 program costs, and in 1985 to \$1 million for prior year claims and \$10 million for 1985 program costs.

EDITORIAL

Before the debate on the President's budget begins, Congress will be in recess February 8 — 19, and many Members will be back in their home States and Districts. This is an excellent time to discuss priorities with them.

Eliminating the entitlement of abused, neglected and dependent children to necessary foster care, group care and health care would be a morally indefensible act, and this is precisely what the proposed capping of foster care and Medicaid would accomplish.

The Adoption Assistance and Child Welfare Act has clearly furnished the Federal leadership States needed to move children into permanent homes wherever possible. Fast fix bonuses to States for solving children's problems more quickly would fall far short of meeting the nation's responsibility for our needy children. The entitlement in this instance is not a matter of what States are entitled to receive from the Federal government. It is a matter of the entitlement of abused and needy children to basic support and health care.

By no stretch of the imagination does the very small dent these proposed cutbacks would make in the Federal deficit justify the abrogation of our responsibility for our most vulnerable children.

Don A. Linder

CWLA WILL SURVEY CHILD WELFARE BILL ISSUES

The CWLA staff has been meeting with Hill staffers and other national organizations in preparation for upcoming legislation to amend P.L. 96-272, the Adoption Assistance and Child Welfare Act. There is a lack of specific data on the implementation of the Act, so CWLA, as the national membership group, will be surveying its membership regarding how the Act has affected children and agencies serving children. This data is critical to a strong stand in addressing upcoming legislation.

CHILD WELFARE ALLOTMENT PERCENTAGES

The Office of Human Development Services has issued the following chart of allotment percentages to be used in determining States' Title IV-B Child Welfare Services grants in FY 1986 and FY 1987. Allotment percentages are one of the factors used in computing Federal grants under this program. The other factor is the ratio of the State's population under age 21 to the same national population.

State	Allotment percentage
Alabama	60.77
Alaska	90.00
Arizona	54.22
Arkansas	61.87
California	43.05
Colorado	45.33
Connecticut	37.42
Delaware	46.54
District of Col.	93.80
Florida	50.65
Georgia	56.67
Hawaii	47.82
Idaho	58.74
Illinois	45.97
Indiana	54.55
Iowa	52.22
Kansas	47.13
Kentucky	59.33
Louisiana	55.16
Maine	68.41
Maryland	44.78
Massachusetts	44.70
Michigan	51.00
Minnesota	49.12
Mississippi	65.37
Missouri	53.23
Montana	56.78
Nebraska	51.19
Nevada	45.80
New Hampshire	49.86
New Jersey	40.78
New Mexico	58.40
New York	45.20
North Carolina	58.62
North Dakota	50.07
Ohio	51.87
Oklahoma	51.47
Oregon	53.77
Pennsylvania	50.96
Rhode Island	50.75
South Carolina	61.06
South Dakota	57.71
Tennessee	59.31
Texas	49.21
Utah	60.99
Vermont	57.22
Virginia	48.08
Washington	47.33
West Virginia	60.23
Wisconsin	51.43
Wyoming	45.65

HHS REPORTS ON VOLUNTARY PLACEMENTS

One provision of P.L. 96-272, the Adoption Assistance and Child Welfare Act, which will require congressional attention this year is the authorization for States to claim Federal reimbursement on behalf of children placed in foster care under voluntary agreements. This provision which was due to expire last year, was extended for one year to give Congress a chance to evaluate its effectiveness.

HHS has been studying the issue and their preliminary results favor the continuation of this option, especially since their data indicates that voluntary placements tend to be short stays — 89 percent of voluntary placements leave care within 6 months, compared with only 56 percent of court ordered placements.

Since FY 1981, the number of States claiming funds under this provision has increased from zero to 1 in FY 1983, and HHS expects 22 States to claim reimbursements for voluntary placements in FY 1984. HHS is currently doing a follow up its 1983 study.

STATE AGENCIES REMINDED OF FOSTER CARE STANDARDS

A January 1, 1985, program instruction from the Department of Health and Human Services reminds State agencies that, although the foster care standards requirement was inadvertently omitted in 1981 block grant legislation, it was reinstated in 1982 legislation. States are required to designate an agency responsible for establishing and maintaining standards for foster family homes and child care institutions which are "reasonable in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation and protection of civil rights."

REVISED 1985 TITLE XX ALLOTMENTS

The Department of Health and Human Services has published revised FY 1985 Federal allotments to States for Title XX Social Services. The revisions were necessary because an amendment to Title XX, passed on October 12, 1984 as part of P.L. 98-473, the Continuing Resolution, appropriated an additional \$25 million for Title XX training for FY 1985.

As the revised allotment chart indicates, States are now entitled to their share of \$2.725 billion. The additional funds are earmarked for training "including training in prevention of child abuse in child care settings."

Because the additional funds are provided within the flexible block grant structure, the Department is leaving it up to States to define the terms (child care, juvenile facility, etc.).



Gordon Raley
photograph by Claire Flinders

GORDON RALEY TO HEAD CWLA PUBLIC POLICY

Gordon Raley, M.S.W., who has been Staff Director for the U.S. House of Representatives' Subcommittee on Human Resources since 1977, has been named as the director of the Child Welfare League's public policy unit located in CWLA's Washington office.

Raley graduated from Baylor University; received an M.S.W. from Tulane University; and attended the Institute of Politics at Loyola University. Prior to his work in the Congress, he was Senior Staff Associate for the Criminal Justice Project of the National League of Cities and Conference of Mayors. He also worked for the city of New Orleans and the city of Waco, Texas, in health information, criminal justice and urban design projects. Adding Gordon to our "team" represents a serious statement for the League. The Board, staff, and membership welcome him warmly.

CHILDREN '85 CWLA NATIONAL CONFERENCE

Registration due this week. Contact the hotel and the D.C. Office now! This will be a really special one — see you there.
CWLA Washington (202) 638-CWLA
Mayflower Hotel (800) 325-5000

States	Column 1— Authorized Level P.L. 98-135	Column 2— Authorized Level P.L. 98-473	Column 3— Total
Total	\$2,700,000,000	\$25,000,000	\$2,725,000,000
Alabama	46,725,250	423,282	46,141,968
Alaska	6,079,285	17,031	6,126,326
Arizona	33,106,172	907,094	33,173,266
Arkansas	20,667,727	245,997	20,813,724
California	286,713,437	2,654,764	289,368,191
Colorado	35,311,636	328,859	35,638,495
Connecticut	36,563,945	338,555	36,902,500
Delaware	6,881,191	64,640	7,045,771
District of Col.	7,317,432	67,764	7,385,186
Florida	120,789,806	1,118,424	121,908,230
Georgia	65,393,022	605,491	65,998,513
Hawaii	11,526,084	106,731	11,632,815
Idaho	11,190,684	103,817	11,294,501
Illinois	132,767,460	1,229,236	133,996,696
Indiana	63,444,799	587,462	64,032,251
Iowa	33,683,017	1,926	33,999,943
Kansas	27,924,625	2,960	27,927,585
Kentucky	42,624,599	2,746	42,918,345
Louisiana	60,584,210	4,372	61,052,582
Maine	13,138,906	1,657	13,200,563
Maryland	48,469,344	4,057	48,917,301
Massachusetts	67,039,734	620,738	67,660,472
Michigan	105,033,008	978,084	106,011,092
Minnesota	47,928,697	443,783	48,372,480
Mississippi	29,582,834	273,915	29,856,749
Missouri	57,414,680	531,817	57,946,497
Montana	8,288,848	80,008	8,368,856
Nebbraska	18,582,160	170,298	18,752,458
Nevada	10,210,673	94,598	10,311,171
New Hampshire	11,028,332	102,114	11,130,446
New Jersey	80,255,240	708,860	81,033,100
New Mexico	15,759,730	145,823	15,905,553
New York	204,783,716	1,890,140	206,673,856
North Carolina	60,709,716	646,284	61,356,000
North Dakota	7,760,098	71,942	7,832,040
Ohio	126,138,617	1,158,690	127,297,307
Oklahoma	36,842,282	341,132	37,183,414
Oregon	30,719,207	284,438	31,003,645
Pennsylvania	137,593,227	1,274,011	138,867,238
Rhode Island	11,109,608	102,800	11,212,408
South Carolina	37,143,783	343,824	37,487,607
South Dakota	8,013,225	74,197	8,087,422
Tennessee	51,935,617	498,404	52,434,021
Texas	177,185,491	1,640,690	178,826,181
Utah	18,021,060	166,862	18,187,922
Vermont	6,983,827	65,406	7,049,233
Virginia	63,676,730	589,598	64,266,328
Washington	40,227,412	456,809	40,684,221
West Virginia	22,590,106	208,108	22,798,214
Wisconsin	65,257,025	611,645	65,868,670
Wyoming	6,821,476	63,803	6,885,279



Sandra

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 18, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which will enhance the state's ability to protect children who have been the victims of child abuse or neglect. The bill makes numerous changes to existing civil and criminal laws, and adds some badly needed provisions. A section-by-section analysis of the bill, explaining the reasons for and effect of the proposed changes, appears below.

In brief summary, secs. 1 and 2 of the bill create a new crime, endangering the welfare of a minor in the second degree, which would make it a crime for a daycare worker or other person entrusted with the care of a child to negligently expose the child to substantial risk of injury or to injure a child by unlawfully failing to provide the child with necessary food, care, clothing, or shelter. Section 3 strengthens existing law prohibiting sale and distribution of child pornography, and sec. 4 makes some technical amendments to an existing law which expands the statute of limitations in prosecutions for certain sexual offenses against children.

Section 5 adds a new statute to existing law, to allow the introduction of certain hearsay evidence in grand jury prosecutions for sexual offenses against children. Section 6 makes it clear that Alaska's "rape shield" statute applies to child victims as well as to adult victims. Sections 7, 8, and 9 expand existing law regarding a criminal records check of persons employed in positions of authority over children. Sections 10 and 11 revise the law regarding curfew violations; and sec. 12 revises the procedures for submission of predisposition reports in delinquency proceedings.

Section 13 and 14 revise existing procedures requiring the

Department of Health and Social Services, division of family and youth services (DFYS), to file a court petition to assume emergency custody of an abused or neglected child. Section 15 adds a definition of "sexual abuse" to the child abuse reporting laws, and secs. 16 and 23 add "mental injury" to the types of harm that must be reported. Sections 17, 18, 24, and 25 expand the classes of persons who are required under the law to report cases of suspected child abuse. Section 19 clarifies that a person who submits a report of abuse or neglect in good faith is immune from civil or criminal liability.

Section 20 abolishes the application of some evidentiary privileges that prevent the introduction of evidence in child abuse proceedings. Section 22 authorizes the state to seek an injunction prohibiting a person who has abused children in the past from having contact with a child not related to him. Section 26 allows the state to establish regulations devising a system of civil fines to enhance enforcement of child care licensing laws. Sections 27 and 28 describe the effect of two sections of the bill that would amend court rules.

SECTION-BY-SECTION ANALYSIS

Section 1

Under existing AS 11.51.100, endangering the welfare of a minor, it is class C felony offense for a parent or guardian to intentionally desert a child under circumstances which place the child in substantial danger of injury. Section 1 of this bill adds "in the first degree" to the title of the existing crime (sec. 2, below, adds a "second degree" form of the crime), and expands the law's coverage to children under the age of 18 (rather than under age 10).

Section 2

This section creates a new class A misdemeanor crime: endangering the welfare of a minor in the second degree. A person commits this crime if he has been entrusted with the care of a child under 13 and either: (1) negligently exposes the child to circumstances creating a substantial risk of injury or abuse, or (2) negligently exposes the child to physical injury by failing to provide the child with necessary care, food, shelter, or medical attention. This new provision would apply to child care providers (such as day care workers) who neglect children entrusted to their care or who allow the children to be exposed to dangerous conditions.

Section 3

Under AS 11.61.125, enacted in 1983, it is a class C felony offense to bring child pornography (visual depictions of children engaged in sex acts) into the state for sale or distribution. The law also prohibits possession or publication of such material with intent to sell it. As presently written, however, AS 11.61.125 does not explicitly prohibit the sale of child pornography. This omission makes prosecution under the new law more difficult. For example, who "possessed" illicit material sold over a bookstore counter? The store owner, or the clerk who actually made the sale? Under current law the answer is not clear. Section 3 of the bill clears up this ambiguity, and strengthens existing law, by explicitly including sale, distribution, or exhibition of child pornography for profit among the acts prohibited by law.

Section 4

AS 12.10.020(c), enacted in 1983, extended the general five-year statute of limitations for sex crimes against children. Under certain circumstances, a crime of this nature can be prosecuted up to 10 years after it was committed. This extension was adopted because, under the prior law, the five-year limitation period often expired before the child victim became old enough to report the assault. This was especially true when the victim was a very young child. Section 4 of this bill amends the language of AS 12.10.020 to include prostitution related offenses among those offenses to which the extension applies. The amended language also includes offenses committed under sections of the criminal code that were repealed when the laws relating to sexual offenses against children were revised in 1983.

Section 5

This section adds a new statute allowing a child's out of court ("hearsay") statement about a sexual offense to be introduced, under specified conditions, at grand jury proceedings. This would allow the grand jurors to hear and consider, for example, a videotaped statement given by the child victim immediately after the abuse was discovered. The statement must appear reliable and the child must either testify at the grand jury, or be "unavailable," as defined in the statute. Adoption of this measure will help to reduce the number of times a young child must be interviewed or testify about an assault, and will bring Alaska's procedure more in line with procedures used in other jurisdictions.

Section 6

AS 12.45.045, which limits the introduction in a sexual assault trial of evidence of the victim's previous sexual conduct, was adopted in 1978 as part of the new criminal code. Virtually all states have adopted some version of such a "rape shield" statute. The statute is designed to protect the sexual assault victim from unwarranted invasion into her private life. As originally adopted in the new criminal code, serious sexual offenses against children were included in the general sexual assault statutes. The protections included in AS 12.45.045 thus applied in child abuse cases as well as adult rape cases.

In 1983 the criminal laws regarding sexual offenses against children were revised; most sexual offenses against children are now called "sexual abuse of a minor" in one of four degrees. Unfortunately, the language of AS 12.45.045 was not altered to reflect the new designation for sexual crimes against children. Section 6 of this bill amends the statute to make it clear that the protections accorded to adult victims of a sexual assault apply to child victims as well.

Sections 7, 8, and 9

Existing AS 12.62.035 authorizes the release of certain criminal conviction records for persons who hold or are applying for paid or volunteer positions which would give them supervisory or disciplinary power over a child. Sections 7, 8, and 9 of this bill expand the types of convictions that may be reported to include all crimes that might pose a risk to children. Section 9 allows the state to inform an inquiring employer if there is a pending warrant for the arrest of the employee.

Sections 10 and 11

These sections revise existing law relating to curfews for minors. Section 10 provides that only a fine may be imposed upon a minor who violates a local curfew; no jail sentence may be given. Section 11 provides that curfew violations, like traffic and fish and game law violations, will be handled in an adult criminal court rather than in the juvenile justice system.

Under existing law, local communities have the authority to establish curfews for minors and to impose penalties for violations. Many communities, particularly in rural areas, have established curfews in hopes of controlling juvenile activity which might lead to delinquent behavior, and in hopes of providing protection for children and promoting family responsibility and unit. Present AS 29.43.110, passed in 1962, authorizes penalties of up to a \$300 fine and 30 days in jail for curfew violations.

These penalties cannot be enforced, however, because the statute conflicts with other state laws. Since minors alleged to have committed crimes come within the jurisdiction of AS 47.10, curfew violations must be handled through the juvenile court, which cannot impose fines or terms of imprisonment. Thus, juveniles accused of curfew violations may be adjudicated as delinquents, but may not be fined or sentenced as indicated in AS 29.43.110.

AS 29.43.110 reflects an outmoded approach to family and behavioral problems of youth. The intent of both federal and state laws passed within the last 15 years has been to limit the unnecessary detention of nondelinquent juveniles through the decriminalization of status offenses such as curfew violations. This is good public policy, especially since Alaska's juvenile detention facilities are already overcrowded by youth requiring secure detention in order to protect either the public or themselves.

In order to remove an anomolous provision from the state statutes, and at the same time provide municipalities with an effective method of enforcing curfews, this bill makes failure to comply with municipal curfew ordinances a violation rather than a crime, and requires that minors accused of violating curfew ordinances be made subject to prosecution, as they presently are subject to prosecution for violation of fish and game statutes or regulations and traffic laws.

A minor accused of a curfew violation would be charged and prosecuted in district court, and would be subject to a fine of up to \$300. The court could, of course, suspend any portion of the fine and require, as a condition of the suspension, that the minor complete a reasonable period of community service work or the fulfillment of similar reasonable conditions. This would reduce unnecessary detention of juvenile curfew violators. This is particularly important in rural areas where juveniles detained for such violations are held in adult jails which may not provide legally required sight and sound separation. It would also ensure that curfew violations are dealt with expeditiously, by allowing them to be handled by local law enforcement officers and judges. Communities would have greater flexibility in developing appropriate conditions to be met by violators.

Section 12

Under AS 47.10.081, before a juvenile court may "dispose of" (sentence) a delinquent minor, all parties must receive a predisposition report. This report is prepared by a DFYS worker. Section 12 amends AS 47.10.081(c) to provide that the report must be provided to all parties two (rather

than 10) working days before the hearing.

The present 10-day requirement presents considerable practical problems, and often requires a delay in the disposition proceedings. In delinquency dispositions where there are 30 or less calendar days between adjudication and disposition, investigating probation officers may have fewer working days to complete their investigation and prepare the disposition report than the parties have to review the document prior to court. The ten day requirement also eliminates any possibility of a practical effort to reduce the total time between adjudication and disposition for those children detailed during that process.

The present "10-day rule" has resulted in lengthening periods of detention because additional time is necessary to complete predisposition investigations and disposition hearings must be postponed. While there is no question that parties to a disposition hearing, including a child's attorney, must have prior access to investigative reports, a full 10 days of advanced availability is unnecessary. Two full working days should be sufficient time to allow all parties to carefully review the report.

debatable

Section 13

This section would change the standard for assuming emergency custody in neglect cases to conform to the same standard used in abuse cases. It would thus allow earlier emergency intervention to protect neglected children. It would also allow assumption of custody of neglected children who need immediate medical attention rather than requiring that their life be endangered.

Section 14

Section 14 of the bill modifies the time constraints upon DFYS for filing of petitions when a minor is taken into emergency custody. The modification relaxes the time-frame (in conformity with current practices in Anchorage) to allow a petition to be filed on the next business day following the assumption of custody of the minor. The Anchorage courts have permitted this practice for several years, notwithstanding the requirement in current law that the petition be filed within 12 hours after the minor has been taken into custody. Practices around the state vary, and a recent legislative audit report strongly suggests that practices should be made uniform throughout the state.

In those courts that interpret the 12-hour requirement literally, cases are brought before magistrates on weekends and holidays. The initial probable cause determination is usually not made by the magistrate, however;

the case is held over to the next business day. Although there is some minimal screening which occurs when the case appears before the magistrate, the same issue is addressed again on the next business day before a judge or special master. The advantage of the proposed change is that it prevents this additional hearing, and allows the social worker to perform the many tasks needed after emergency custody is assumed (making arrangements for placement and medical or other care as needed), while still requiring that the social worker attempt to immediately notify the parent of the assumption of custody.

Section 14 also includes language that allows DFYS discretion in filing petitions when emergency custody has been assumed in situations that do not require continued protective custody or DFYS involvement. These instances constitute a small percentage of the emergency custody cases, and involve situations in which a primary or temporary caretaker has allowed the child to wander off and the child is discovered by parties who do not know the family. Under current law, in order to provide temporary shelter for the child until parents are located, DFYS must assume emergency custody. A request to dismiss is often filed with the petition in these situations, and the petition is filed only because the present statute appears to require it. This section eliminates the need for this unnecessary paperwork.

Section 15

Section 15 defines the term "sexual abuse" for purposes of civil child in need of aid (CINA) proceedings under AS 47. Although the term "sexual abuse" is now used in AS 47, it is not defined. The proposed definition would prevent constitutional challenges to the state's assumption of jurisdiction over children who are sexually abused by their parents.

To allow DFYS intervention in all cases of suspected sexual abuse, the definition is quite broad. It includes all sexual conduct which is also a crime. Other forms of inappropriate touching are also included, but conduct reasonably necessary for normal caretaker or medical responsibilities is excluded. CINA proceedings focus on the ill-effects of sexualized contacts and overtures by a child's parents. The provisions in AS 47 are intended to protect against the mental and emotional harm which results from inappropriate sexual contact between a parent and a child. Thus, it is important that reasonable perceptions of the child be considered by the court in determining whether or not sexual abuse has occurred. The proposed definition specifically allows for this.

Section 16

Although existing law allows DFYS intervention to protect children from mental harm, it does not require that the harm be reported by professionals as is the case with neglect and physical and sexual abuse. This section will correct that deficiency. Together with sec. 23, which clearly defines "mental injury," this change will provide greater protection for children who have suffered observable mental injury, by increasing the reporting of such incidents. Similar provisions are included in the statutes of 47 other states, and inclusion in child protection laws is encouraged by federal policies and law.

Section 17

This section revises and expands existing law requiring persons in certain professions to report to DFYS suspected abuse of a child by a parent or other caretaker. Under existing law, a significant number of persons who regularly have access to information that a child has suffered harm as the result of abuse or neglect by a caretaker are not required to report that information. The revised statute focuses upon those individuals who regularly have contact with a child, or a child's family, and are therefore in a position to gain knowledge of child abuse and neglect. These changes are needed to insure that all children abused or neglected by caretakers come to the attention of DFYS.

The word "professional" has been deleted from AS 47.17.020(a), since many persons who have regular access to children and information about harm are considered para-professionals. Paragraph (a)(2) of AS 47.17.020 has been expanded to include all employees or volunteers of private or public schools, not just teachers or administrative staff. The term "social workers" in existing paragraph (a)(3) has been expanded to include all human service providers (defined in sec. 25).

In paragraph (a)(6), "licensed day care providers and paid staff" has been broadened to include all child care providers, including foster parents. This change is recommended because many persons who regularly provide day care services need not be licensed under existing law, and because children are cared for in a number of situations other than day care or foster care. Reference to "licensed foster care providers" has been eliminated from paragraph (a)(7), because they are now included in the scope of (a)(6). Instead, (a)(7) requires all counselors, licensed and unlicensed, to report suspected instances of child abuse. Present law applies to psychiatrists and psychologists (as "practitioners of the healing arts"), but not to other individuals who regularly counsel families or child-

ren. New paragraphs (a)(8) -- (10) add other categories of persons required to report.

Section 18

Under present law, persons in the categories listed in AS 47.17.020(a) are required to report suspected child abuse or neglect only if the abuse or neglect is caused by or attributable to the actions of a person "responsible for the child's welfare." See AS 47.17.070(1) and (7). Thus, harm caused by a person not related to the child or residing in the child's home need not be reported to DFYS.

Section 18 of this bill adds a new section to the statutes: reports to law enforcement agencies. If a person listed in AS 47.17.020 (the general reporting statute) has reason to believe that a child has suffered harm as a result of injury, neglect, or exploitation by someone other than a family member or caretaker, the person must report that harm to a law enforcement officer (rather than DFYS). The law should require that all instances of abuse or neglect be reported to the authorities, not just intrafamily abuse. All children should be protected under the law, without regard to the identity of the perpetrator or the relationship to the child victim.

New subsec. (b) requires film processors to report suspected cases of child pornography to law enforcement authorities for investigation. Several other states have such a requirement. On at least one occasion in the past, an Alaska man who photographed a young child engaged in sex acts with him was apprehended as a result of a similar reporting requirement in another state. A person who knowingly fails to make a report as required in this section is guilty of a class B misdemeanor under AS 47.17.068 (see sec. 21, below).

Section 19

Section 19 amends the immunity provision in existing AS 47.17.050 to make it clear that a person who makes a child abuse report in good faith, and whose information or testimony is used in connection with criminal prosecution of the offender, as well as in a civil proceeding, is immune from liability for making the report. This clarification is necessary as a result of the appellate court's decision in State v. R.H. and Wetherhorn, 683 P.2d 269 (Alaska App. 1984). The Wetherhorn court held that the phrase "judicial proceeding," as used in AS 47.17.060 (dealing with evidence that is not privileged), refers only to civil proceedings -- i.e., "child protection proceedings" -- under AS 47.10 ("Delinquent Minors and Children in Need of Aid"). 683 P.2d at 280.

Section 20

This section of the bill clarifies existing law regarding evidence that may be admitted in civil or criminal proceedings regarding the abuse of a child. The amendment abrogates some evidentiary privileges that prevent the introduction of evidence of harm. The clergyman privilege would not apply if the communication was made during the course of counselling sessions (rather than in furtherance of a religious practice).

Section 21

This section contains a conforming amendment extending existing "B" misdemeanor penalties for failure to report suspected child abuse, as explained above regarding sec. 18.

Section 22

Section 22 of this bill provides broad authority to the state to enjoin or limit persons who endanger children in the ways specified from having contact with children. While there may be common law authority for this view, statutory confirmation of this authority removes one issue from possible litigation in cases where the attorney general chooses to bring an action to enjoin or limit a person from contact with children. This addresses the problem of no regulation of day care providers who care for less than five children without burdening the public with regulation of all day care providers.

Section 23

This section amends the existing definition of "child abuse or neglect" to include mental injury caused by a person responsible for the child's welfare. The rationale for including "mental injury" is described in connection with sec. 16, above.

Section 24

Existing law requires "practitioners of the healing arts" to report suspected child abuse or neglect. This section expands the definition of this term to include nurse practitioners and physician's assistants. Although these health care professionals are considered included in the current definition, this amendment clears up any possible uncertainty by specifically referring to persons who hold these positions.

Section 25

This section adds new definitions related to the expanded classes of persons who must report child abuse (see secs. 17 and 18 of the bill).

Section ²⁷~~26~~

Section 26 of this bill makes two changes. First, AS 47.35.070(a) is amended to bring this statute into conformity with the criminal code by making violations of child care licensing statutes and regulations a class B misdemeanor. Second, subsec. (b) adds language that gives statutory authority to the Department of Health and Social Services to establish a system of civil enforcement (including the levy of up to \$200 daily in civil penalties) for violations of its licensing statutes and regulations.

This authority will provide the department with a valuable regulatory tool. Presently, the department has only two choices with respect to licensees who violate statutes and regulations. The department can either revoke the license or do nothing. While the department can require the licensee to establish a plan of correction for violations, its only lever to enforce this requirement is the authority to revoke the license. If a system of civil penalties existed, the department would have the additional tool of fining licensees for minor violations of regulations and statutes. The new language makes it clear that imposition of a civil penalty would not preclude criminal prosecution in appropriate circumstances.

Section ²⁸~~27~~

New AS 12.40.050, contained in sec. 5 of this bill, allows the introduction under certain circumstances of hearsay evidence of a child's statement in grand jury proceedings for sexual offenses against children. Section 28 indicates that this would have the effect of altering a court rule of criminal procedure. A two-thirds vote of each house is thus required on this section of the bill, under art. IV, sec. 15 of the Alaska Constitution.

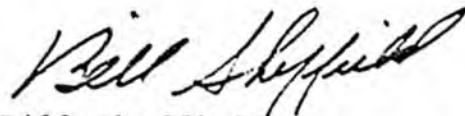
Section ²⁹~~28~~

This section states that the changes proposed in sec. 20 of the bill would amend Alaska Rules of Evidence 504, 505, and 506 by preventing the application of the physician-patient privilege and the husband-wife privilege, and by limiting the application of the clergyman privilege, in civil or criminal proceedings arising from reports of abuse made under AS 47.17. A two-thirds vote of each house is required for passage of this section.

*Sec 30 - Background checks effective 10-1-85,
No effective date for rest of bill*

The problems related to the protection of children are among the most serious facing our society. Therefore, I urge your prompt, thoughtful, and favorable consideration of this measure.

Sincerely,

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

Bill Sheffield
Governor

SECTIONAL ANALYSIS FOR

SENATE CS FOR CS FOR HOUSE FOR HB 88 (FINANCE)

Sections 1 and 2.

These two sections relate to the crime of distribution of child pornography and the definition of "distribution". The wording contained in these sections is based on a recent United States Supreme Court case, New York v Ferber, 458 U.S. 747 (1982), which allows the state to constitutionally regulate the production and distribution of material that depicts children engaged in sexual activity even when the material is not legally obscene.

Section 3.

This section allows prosecutions under AS 11.41.410 - 11.41.460 (sexual offenses), AS 11.66.110 - 11.66.130 (prostitution) and former AS 11.41.430 or former AS 11.51.130(a)(4) (formerly sexual assault and contributing to the delinquency of a minor), for an offense committed against a person under the age of 16. Prosecution may be commenced within one year after the crime is reported to a peace officer or the person reaches the age of 16 which ever occurs first. The period of limitation is not extended by more than five years.

Section 4.

AS 12.45.045, evidence of past sexual conduct in trials for sexual offenses, is amended to include, sexual abuse of a minor in any degree, or unlawful exploitation of a minor, or any attempt to commit any of these crimes. This statute provides for an in camera hearing to determine the admissibility of evidence.

Section 5.

The jurisdiction over a child in need of aid proceedings is amended to include: the child being in need of medical treatment to cure, alleviate, or prevent substantial physical harm, or in need of treatment for mental harm as evidenced by failure to thrive, severe anxiety, depression, withdrawal, or untoward aggressive behavior or hostility toward others, and the child's parent, guardian, or custodian has knowingly failed to provide treatment; and children which have been or are in imminent and substantial danger of being sexually abused.

Section 6.

This section rewrites the circumstances under which the Department of Health and Social Services may take emergency custody of a minor. AS 47.10.142(a)(2) allows the department to take emergency custody of minors that have been abandoned, or grossly neglected by their parents or guardian, if the department determines that immediate removal from the minor's surrounding is necessary to protect the minor's life, or provide immediate necessary medical attention. Previously the wording of this subsection read, "so that immediate removal from the minor's surrounding is, in the determination of the department, necessary to protect the minor's life." This is a minor change in the wording.

Section 7.

This section modifies the procedure that the Department of Health and Social Services must follow when children are taken into their custody. Presently the person having custody of the child and t' court must be notified immediately, and in no event more than hours after the child is taken into custody. The court must be notified through the filing of a "child in need of aid" petition.

Senate CS for CS HB 88(Finance) still requires the department to notify the parents within 12 hours and file a "child in need of aid" petition within 12 hours after custody was assumed if custody will continue. If, however, the department decides to return the child to ~~their~~ ^{the} parents or guardian~~s~~ within 12 hours after custody was assumed, the department need only file a report with the court which explains why the child was taken into custody. When a petition is filed, the court must open a file on the matter, However, when a report is provided the court, no file is opened, but the court is advised as to the justification for the temporary custody.

This amendment ensures that justification for assuming custody of children will always be promptly presented to the court. Protection of the child, notification to the parents, justification to the court, and reasonable procedures for the department are all assured under this amendment.

Section 8.

This section expands the list of individuals required to report instances of child abuse or neglect to the nearest office of the department. Presently school teachers and school administrative staff members must report; ~~however,~~ Senate CS for CS HB 88(Finance) specifically designates that this applies to both public and private schools. In addition, child care providers, not just licensed day care providers, must report. Finally, paid employees of domestic violence and sexual assault programs and crisis prevention programs are required to report.

Section 9.

This section primarily represents housekeeping changes and replaces "non-occupational" for "nonprofessional".

Section 10.

This section provides that religious healing practitioners are not required to report as neglect of a child the failure to provide medical attention to the child, if the child is provided treatment solely by spiritual means.

Section 11.

This section makes it mandatory for persons who process or produce visual or printed matter containing child pornography to report to law enforcement.

Section 12.

This section allows for the taking of photographs and x-rays of a child believed to have suffered physical harm as a result of child abuse or neglect. While parental permission is not necessary, the parents, guardian or custodian must be notified after the photograph or x-ray is taken.

Section 13.

This section provides that a person who knowingly fails or refuses to report an incidence of harm is guilty of a class B misdemeanor. This section deletes "willfully" which is no longer used.

Section 14.

Protective injunctions may be sought in cases against persons who have physically abused a child, or engaged in conduct that constitute a clear and present danger to the mental, emotional, or physical welfare of a child. The purpose of this section is to give the Department of Law the ability to enjoin persons from association with children in the event that it is proved by a preponderance of the evidence that the person has committed the act.

Section 15.

The definition of practitioner of the healing arts is expanded to include: dental hygienists, nurse practitioners, physician's assistants and psychological associates. This definition is used for the required recording under AS 47.17.020.

Section 16.

Definitions for "child care provider", "organization" and "persons responsible for the child's welfare" are provided.

Section 17.

This section provides that violations of Title 47 or a regulation adopted under that chapter will be prosecuted as a class B misdemeanor. The prior fine under this section is deleted.

Section 18.

A system of civil enforcement may be adopted by the department for violations of a licensing statute or licensing regulation. This is seen as a needed provision for ensuring compliance by licensed day care facilities.

Section 19.

This Act takes effect July 1, 1985.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

PUBLIC DEFENDER AGENCY

January 29, 1985

800 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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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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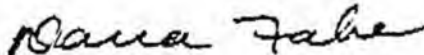
January 29, 1985

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



Official Business

Alaska State Legislature

Senate

Sander

Pouch V
State Capitol
Juneau, Alaska 99811

March 20, 1985

Honorable Don Bennett President - State Senate Pouch V Juneau, Alaska 99811	Honorable Ben Grussendorf Speaker - House of Representatives Pouch V Juneau, Alaska 99811
--------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------

Dear Mr. President and Mr. Speaker:

Alaska has gradually awakened to the problem of child victimization, realizing perhaps that distance alone is no immunity from this national illness. Although the legislature has responded to child protection needs in the past, it is evident from growing caseloads that a renewed commitment to child safety is now essential. As Governor Sheffield noted in this year's State of the State address, "(The)...record caseload is shameful enough in itself. But numbers alone can't tell you the pain these children feel..." Clearly, it is time to act.


Earlier this session, Senate and House standing committees met jointly to hear from John Walsh, a representative of the National Center for Missing and Exploited Children and a national authority on victimized children. As a result of his testimony, and the realization that Alaska was facing a serious problem, several members of the legislature met to devise an expeditious method of addressing this critical problem. A special working group of committee staff was established to review existing law and to supply the legislature with a comprehensive package for consideration this year.

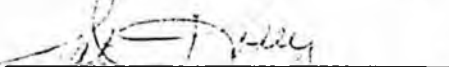
The staff committee worked extensively for two weeks to refine existing legislation and to evaluate the recommendations of the National Center for Missing and Exploited Children. The attached proposals attempt to address the most critical areas, including both statutory changes and budgetary needs. Further work will certainly be necessary and several issues have been identified for study during the interim.


March 20, 1985
Page 2


It is our belief that enactment of these proposals will have a dramatic and measurable impact on Alaska's ability to enforce child protection statutes and to prevent child victimization. We urge all members to review this package and to lend their support in this bi-partisan, bi-chamber effort.

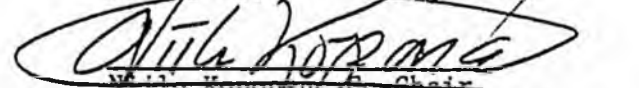
Sincerely,

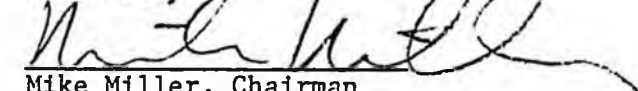

Bettye Ehrenkamp, Chairman
Senate HESS


Patrick Rodey, Chairman
Senate Judiciary


Jan Faiks, Co-Chair
Senate Finance


Max Gruenberg, Co-Chair
House HESS


Wilo Koponen, Co-Chair
House HESS


Mike Miller, Chairman
House Judiciary

cc: All Members of the Alaska State Legislature

Attached for your information:

1. The "package" of bills to be considered.
2. An outline of the John Walsh materials, with a comparison of what exists now in Alaska law, and what's being proposed in this package.
3. A section-by-section analysis of SB 243/HB 88, the "omnibus" bill.
4. Identified costs of the package.
5. A listing of additional issues identified for continuing discussion.

CHILD AND FAMILY PROTECTION

LEGISLATIVE PACKAGE

SB 3
HB 67

HEARSAY EVIDENCE

SB 3 would allow hearsay evidence to be admitted at grand jury in prosecutions for sexual assault in the first and second degrees, sexual abuse of a minor in the first, second, third and fourth degrees, and unlawful exploitation of a minor. The child must be under the age of 10, and the child must either testify before the grand jury or be unavailable as defined in the bill.

SB 8

SCHOOL CURRICULA

SB 8 would urge expansion of existing health curricula to include the identification and prevention of child abuse, child abduction, neglect, sexual abuse, and domestic violence.

SB 21
HB 308

BACKGROUND CHECKS

SB 21 would expand the type of convictions that may be released to include all crimes that might pose a risk to children (as defined in the bill), and allow the release of outstanding warrants for these crimes. It would require a criminal record check on foster parents and persons seeking to adopt minors.

SB 27

COMMUNITY TRAINING

SB 27 would provide funds to the Council on Domestic Violence and Sexual Assault to train teams of community professionals.

SB 28

REPORTING INCIDENCES OF ABUSE

SB 28 would require training of state employees required to report on the recognition and report of child abuse, and would require school districts to devote half of an inservice day to training teachers and administrators on the reporting law.

SB 86
HB 19

MISSING AND RUNAWAY CHILDREN

SB 86 would require that reports of missing or runaway children be taken immediately and within 24 hours entered into both the State (APSIN) and FBI (NCIC) computer systems. The bill would disallow housing of runaway or missing minors in jail facilities, and require that the legal custodian be immediately notified if the minor is taken into protective custody by the State.

Letter of Intent

\$20,000

\$0

Sen Fin.

\$235,900

H. HESS

\$0

*Waive recommendations -
Hins*

SB 243
HB 88

"THE OMNIBUS BILL"

SB 143 would make several changes to existing civil and criminal laws, and is intended to enhance the State's ability to protect children. (See sectional analysis.)

*

SCR 3
HCR 2
\$0

SCHOOL TEACHER BACKGROUND CHECKS

SCR 3 would urge local school districts to implement background checks on all school district employees who come into contact with children.

SCR 5

MISSING CHILDREN ON MILK CARTONS

\$0

SCR 5 requests that milk producers and distributors in Alaska print pictures of missing children and information about them on milk cartons. (Read by the Governor on March 8, 1985.)

* NOTE: These two bills will not have direct fiscal impacts. However, they are expected to result in an increased number of reports of child abuse, which will be handled by an increased number of social workers and prosecuting attorneys per the Governor's proposed FY 86 budget (see attached memo on financial implications). This increase necessitates a like increase in the number of public defenders, guardians ad litem, judges, and mental health counselors which is represented in fiscal notes attached to SB 243.

*up
files*

*read by
you*

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3/19/85 ✓

Original sponsors: Kerttula, V. Fischer,
Halford and Faiks

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 3 (HESS)

HB 67

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to hearsay evidence in prosecutions
7 for certain sexual offenses; and amending Rule 6(r).
8 Alaska Rules of Criminal Procedure."

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

10 * Section 1. AS 12.40 is amended by adding a new section to read:

11 Sec. 12.40.110. HEARSAY EVIDENCE IN PROSECUTIONS FOR SEXUAL
12 OFFENSES. (a) In a prosecution for an offense under AS 11.41.410 -
13 11.41.440 or 11.41.455, hearsay evidence of a statement related to the
14 offense, not otherwise admissible, made by a child under the age of 15
15 may be admitted into evidence before the grand jury if

16 (1) the circumstances of the statement indicate its reli-
17 ability; and

18 (2) the child

19 (A) testifies at the grand jury proceeding; or

20 (B) is unavailable as a witness, the grand jury mem-
21 bers are informed of the reason for the child's unavailability,
22 and there is additional evidence introduced to corroborate the
23 statement.

24 (b) In this section,

25 (1) "statement" means an oral or written assertion or
26 nonverbal conduct if the nonverbal conduct is intended as an asser-
27 tion;

28 (2) "unavailable" means the child

29 (A) has a lack of memory of the subject matter of the

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statement being offered;

(B) is unable to attend or testify at the hearing because of death or a then existing physical or mental illness or infirmity;

(C) is likely to suffer substantial psychological, emotional, or physical harm if required to testify; or

(D) is absent from the hearing and beyond the jurisdiction of the court to compel appearance and the proponent of the statement has exercised reasonable diligence in attempting to procure the child's attendance.

(c) A child is not unavailable under this section if the unavailability is due to the procurement or wrongdoing of the proponent of the statement to prevent the child from attending or testifying.

* Sec. 2. AS 12.40.110, added by sec. 1 of this Act, has the effect of amending Rule 6(r), Alaska Rules of Criminal Procedure, by making certain hearsay evidence admissible in grand jury proceedings for certain sexual offenses without requiring compelling justification.

Offered: 2/1/85
Referred: Health, Education and
Social Services

Original sponsors: Kerttula, Sturgulewski,
Halford, et al

1 IN THE SENATE BY THE HEALTH, EDUCATION, AND SOCIAL SERVICES COMMITTEE
2 CS FOR SENATE BILL NO. 8 (HESS)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to a personal safety curriculum in
7 public schools."

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

9 * Section 1. AS 14.30.360 is amended to read:

10 Sec. 14.30.360. CURRICULUM. (a) Each district in the state
11 public school system shall be encouraged to initiate and conduct a
12 program in health education for kindergarten through grade 12. The
13 program should include instruction in physical health and personal
14 safety including alcohol and drug abuse education, cardiopulmonary
15 resuscitation (CPR), early cancer prevention and detection, dental
16 health, family health, environmental health, the identification and
17 prevention of child abuse. ^{CHILD ABDUCTION} ~~A~~ neglect, sexual abuse and domestic
18 violence, and appropriate use of health services.

19 (b) The state board shall establish by regulation guidelines for
20 a health and personal safety education program. Personal safety
21 guidelines are to be developed in consultation with the Council on
22 Domestic Violence and Sexual Assault. Upon request, the Department
23 of Education and the Council shall provide technical assistance to
24 school districts in the development of personal safety curriculum.

25 A school health education specialist posi-
26 tion shall be established and funded in the department to coordinate
27 the program statewide. Adequate funds to enable curriculum and re-
28 source development, adequate consultation to school districts, and a
program of teacher training in health and personal safety education
shall be provided.

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3/19/85

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 21 (HESS)

HB 308

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to criminal background checks; and
7 providing for an effective date."

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

9 * Section 1. AS 12.62.035(a) is amended to read:

10 (a) Notwithstanding any other provision of law, an interested
11 person [AS DEFINED IN (e) OF THIS SECTION] may request from the com-
12 mission records of all convictions of an individual for crimes that
13 might pose a risk of harm to a child if the individual [INVOLVING
14 CONTRIBUTING TO THE DELINQUENCY OF A MINOR AND ANY SEX CRIMES OF
15 PERSON WHO] holds or applies for a position in which the individual
16 [PERSON] has or would have supervisory or disciplinary power over
17 minor. The commission shall authorize the disclosure of the informa-
18 tion to the requesting interested person and shall provide a copy of
19 the information to the individual [PERSON] who is the subject of the
20 request.

21 * Sec. 2. AS 12.62.035(e)(1) is repealed and reenacted to read:

22 (1) "crime that might pose a risk of harm to a child"
23 includes a violation or attempted violation of present or former
24 Alaska statutes regarding the offenses now designated as murder,
25 manslaughter, negligent homicide, assault, reckless endangerment,
26 kidnapping, sexual assault, sexual abuse of a minor, unlawful ex-
27 ploitation of a minor, incest, indecent exposure, robbery, arson,
28 endangering the welfare of a minor, contributing to the delinquency of
29 a minor, distribution of child pornography, promoting prostitution,

1 and felony offenses involving distribution of controlled substances:
2 it also includes a violation or attempted violation of the laws of
3 another jurisdiction if the offense would have been one of the crimes
4 listed in this paragraph if committed in this state:

5 * Sec. 3. AS 12.62.035 is amended by adding a new subsection to read:

6 (f) In addition to the information for which disclosure is
7 authorized under (a) of this section, the commission may disclose the
8 existence of an outstanding warrant for the arrest of the person who
9 is the subject of the request if the warrant is for a crime that might
10 pose a risk of harm to a child.

11 * Sec. 4. AS 25.23.100(d) is amended to read:

12 (d) Except as provided in (g) and (i) of this section, an inves-
13 tigation shall be made by the department or any other qualified agency
14 or person designated by the court to inquire into the conditions and
15 antecedents of a minor sought to be adopted and of the petitioner for
16 the purpose of ascertaining whether the adoptive home is a suitable
17 home for the minor and whether the proposed adoption is in the best
18 interest of the minor. The department shall request a state and
19 national criminal record background check by the Department of Public
20 Safety on each person who seeks to adopt a minor.

21 * Sec. 5. AS 47.35 is amended by adding a new section to read:

22 Sec. 47.35.058. INVESTIGATIONS OF PROSPECTIVE FOSTER HOMES. The
23 department shall request a state and national criminal record check on
24 each adult residing in a home before that home may be licensed as a
25 foster home.

26 * Sec. 6. This Act takes effect immediately in accordance with AS 11.-
27 10.070(c).

Funding Information
General Fund \$235,900
Other Funds - 0 -
\$235,900

1 IN THE SENATE

BY FAIKS

2 SENATE BILL NO. 27

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
7 ment of Public Safety, Council on Domestic Violence
8 and Sexual Assault, for a training program on the
9 prevention, intervention, investigation and treatment
10 of sexual and physical abuse of minors; and providing
11 for an effective date."

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

13 * Section 1. The sum of \$235,900 is appropriated from the general fund
14 to the Department of Public Safety, Council on Domestic Violence and Sexual
15 Assault, for a program under AS 18.66.050 to train teams of community
16 professionals, including but not limited to law enforcement officials,
17 prosecuting attorneys, victim advocates, social workers, teachers and
18 medical personnel on the prevention, intervention, investigation and treat-
19 ment of sexual and physical abuse of minors.

20 * Sec. 2. The unexpended and unobligated portion of the appropriation
21 made by this Act lapses into the general fund June 30, 1986.

22 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).

Offered: 2/1/85
Referred: Finance

Original sponsors: Faiks, Sturgulewski,
Halford, et al

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 28 (HESS) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to training state employees, and
7 certain employees of the districts of the state
8 public school system on the recognition and reporting
9 of child abuse and neglect."

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

11 * Section 1. AS 47.17 is amended by adding a new section to read:

12

Sec. 47.17.022. TRAINING. (a) A person employed by the state
13 who is required under AS 47.17 to report abuse or neglect of children
14 shall receive training on the recognition and reporting of child abuse
15 and neglect.

16

(b) Each department of the state that employs persons required
17 to report abuse or neglect of children shall provide

18

(1) initial training required by this section to each new
19 employee during the employee's first six months of employment, and to
20 any existing employee who has not received equivalent training; and

21

(2) appropriate in-service training required by this sec-
22 tion as determined by the department.

23

(c) Each department that must comply with (b) of this section
24 shall develop a training curriculum that acquaints its employees with

25

(1) laws relating to child abuse and neglect;

26

(2) techniques for recognition and detection of child abuse
27 and neglect;

28

(3) agencies and organizations within the state that offer
29 aid or shelter to victims and the families of victims of child abuse

1 or neglect; and

2 (4) procedures for required notification of suspected abuse
3 or neglect.

4 (d) Each department that must comply with (b) of this section
5 shall file a current copy of its training curriculum and materials,
6 with the Council on Domestic Violence and Sexual Assault. Any depart-
7 ment may seek the technical assistance of the council or the Depart-
8 ment of Health and Social Services in the development of its training
9 program.

10 (e) The districts of the state public school system shall devote
11 at least one-half day of existing in-service training time to train
12 school teachers and school administrative staff members on the recog-
13 nition and reporting of child abuse and neglect.

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3/19/85 ✓

Original sponsor: DeVries

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 86 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

HB 19

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to runaway and missing minors."

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

8 * Section 1. AS 47.10.140(e) is amended to read:

9 (e) Except for temporary detention pending a detention hearing
10 [OR TEMPORARY DETENTION UNDER (f) OF THIS SECTION], a minor may [NCL]
11 be detained only [EXCEPT] by court order.

12 * Sec. 2. AS 47.10 is amended by adding a new section to read:

13 Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving
14 a request to locate a minor evading the minor's legal custodian or
15 otherwise missing, a law enforcement agency shall make reasonable
16 efforts to locate the minor and shall immediately complete a missing
17 person's report containing information necessary for the identifica-
18 tion of the minor. As soon as practicable, but not later than 24
19 hours after completing the report, the agency shall transmit the
20 report for entry into the Alaska Public Safety Information Network and
21 the National Crime Information Center computer system. As soon as
22 practicable, but not later than 24 hours after the agency learns that
23 the minor has been located, it shall request that the Department of
24 Public Safety and the Federal Bureau of Investigation remove the
25 information from the computer systems.

26 (b) A peace officer shall take into protective custody a minor
27 described in (a) of this section if the minor is not otherwise subject
28 to arrest or detention. The peace officer shall honor the minor's
29 preference to either (1) return the minor to the legal custodian or

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1 (2) take the minor to an office specified by the Department of Health
2 and Social Services or a facility or contract agency of the depart-
3 ment. If an office specified by the department or a facility or
4 contract agency of the department does not exist in the community, the
5 officer shall take the minor to another suitable location and promptly
6 notify the department. A minor under protective custody may not be
7 housed in a jail or other detention facility. Immediately upon taking
8 a minor into protective custody the officer shall advise the minor
9 orally and in writing of the right to social services under AS 47.10.-
10 142(b), and, if known, the officer shall advise the legal custodian
11 that the minor has been taken into protective custody.

12 * Sec. 3. AS 47.10.140(f) and (g) are repealed.

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Main
3/19/85

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 SENATE BILL NO. 243

HB 88

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the protection of children."

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

8 * Section 1. AS 11.51.100 is amended to read:

9 Sec. 11.51.100. ENDANGERING THE WELFARE OF A MINOR IN THE FIRST
10 DEGREE. (a) A person commits the crime of endangering the welfare of
11 a minor in the first degree if, being a parent, guardian, or other
12 person legally charged with the care of a child under 13 [10] years of
13 age, the person intentionally deserts the child in any place under
14 circumstances creating a substantial risk of physical injury to the
15 child.

16 (b) Endangering the welfare of a minor in the first degree is a
17 class C felony.

18 * Sec. 2. AS 11.51 is amended by adding a new section to read:

19 Sec. 11.51.110. ENDANGERING THE WELFARE OF A MINOR IN THE SECOND
20 DEGREE. (a) A person commits the crime of endangering the welfare of
21 a minor in the second degree if, being entrusted with the care of a
22 child under 13 years of age, the person with criminal negligence

23 (1) exposes the child to circumstances creating a substan-
24 tial risk of physical injury or sexual abuse; or

25 (2) exposes the child to physical injury by failing to
26 provide the child with necessary food, care, clothing, shelter, or
27 medical attention.

28 (b) Endangering the welfare of a minor in the second degree is a
29 class A misdemeanor.

*Separates out
per Sec 2*

*"neglect" definition (care)
AS 47.17.070*

doesn't have to be for
commercial consideration
to cover "trafficking"
language devised per

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* Sec. 3. AS 11.61.125(a) is amended to read:

(a) A person commits the crime of distribution of child pornography if the person brings or causes to be brought into the state for [SALE OR] distribution, or in the state distributes, or in the state possesses, prepares, publishes, or prints with intent to distribute, [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any material that visually depicts conduct described in [UNDER] AS 11.41.455(a), knowing that the production of the material involved the use of a child under 18 years of age who engaged in the conduct.

* Sec. 4. AS 11.61.125 is amended by adding a new subsection to read:

(d) In this section, "distribution" includes delivering, selling, renting, leasing, lending, giving, circulating, exhibiting, presenting, providing, and exchanging, whether or not for monetary or other consideration.

* Sec. 5. AS 12.10.020(c) is amended to read:

(c) Even if the general time limitation has expired, a prosecution under AS 11.41.410 - 11.41.460, ~~(AS 11.66.11C - 11.66.13C)~~ (former AS 11.41.430, or former AS 11.51.130(a)(4)) for an offense committed against a person under the age of 16 may be commenced within one year after the crime is reported to a peace officer or the person reaches the age of 16, whichever occurs first. This subsection does not extend the period of limitation by more than five years.

* Sec. 6. AS 12.45.045(a) is amended to read:

Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a) In prosecutions for the crimes [CRIME] of sexual assault in any degree, sexual abuse of a minor in any degree, or unlawful exploitation of a minor, or an attempt to commit any of these crimes [SEXUAL ASSAULT IN ANY DEGREE], evidence of the complaining witness' previous

child prostitution
old sex abuse
statutes
(5-10 yrs)

clarifies that
applies to kids.
current statute
didn't specifically
exclude

1 sexual conduct may [SHALL] not be admitted nor reference made to it in
 2 the presence of the jury except as provided in this section. When the
 3 defendant seeks to admit the evidence for any purpose, the defendant
 4 may apply for an order of the court at any time before or during the
 5 trial or preliminary hearing. After the application is made, the
 6 court shall conduct a hearing in camera to determine the admissibility
 7 of the evidence. If the court finds that evidence offered by the
 8 defendant regarding the sexual conduct of the complaining witness is
 9 relevant, and that the probative value of the evidence offered is not
 10 outweighed by the probability that its admission will create undue
 11 prejudice, confusion of the issues, or unwarranted invasion of the
 12 privacy of the complaining witness, the court shall make an order
 13 stating what evidence may be introduced and the nature of the ques-
 14 tions that may [WHICH SHALL] be permitted. The defendant may then
 15 offer evidence under the order of the court.

16 * Sec. 7. AS 47.10.081(c) is amended to read:

17 (c) The court shall inform the child, the child's parents, [AND]
 18 the attorneys representing the parties, and the guardian ad litem that
 19 the predisposition report will be available to them not less than six
 20 working [10] days before the disposition hearing.

21 * Sec. 8. AS 47.10.142(a) is repealed and reenacted to read:

22 (a) The Department of Health and Social Services may take emer-
 23 gency custody of a minor upon discovering any of the following circum-
 24 stances:

25 (1) the minor has been abandoned;

26 (2) the minor has been grossly neglected by the minor's
 27 parents or guardian as "neglect" is defined in AS 47.17.070(5), and
 28 the department determines that immediate removal from the minor's
 29 surroundings is necessary to protect the minor's life or that

6 is a compromise. DFYS
 wanted 2. Predisposition
 report ~~is~~ ~~is~~ DFYS
 recommendation on where to
 place delinquent minor. Can
 recommend removal from
 home - parents & attys. need adequate time to review

current:
 neglect only if necessary
 to protect life
 advise if medical
 attention or sexual
 abuse

definition of abuse (p. 10)
 includes sex abuse

1 immediate medical attention is necessary;

2 (3) the minor has been abused by a person responsible for
3 the child's welfare , as "abuse" is defined in AS 47.17.075(1) and
4 the department determines that immediate removal from the minor's
5 surroundings is necessary to protect the minor's life or that immedi-
6 ate medical attention is necessary.

includes sex

7 * Sec. 9. AS 47.10.142(c) is amended to read:

8 (c) When a child is taken into custody under (a) or (b) of this
9 section, the department shall immediately, and in no event more than
10 12 hours later unless prevented by lack of communication facilities,
11 notify the parents or the person or persons having custody of the
12 child. If the department determines that continued custody is neces-
13 sary to protect the child, the department shall notify the court of
14 the emergency custody by filing, within 24 hours after custody was
15 assumed [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-
16 tion alleging that the child is a child in need of aid.

17 * Sec. 10. AS 47.10.290 is amended by adding a new paragraph to read:

18 (8) "sexual abuse" means

19 (A) conduct against a child that would constitute a
20 sexual offense under AS 11,41.4

21 (B) the perpetrator's knowingly touching, directly or
22 through clothing, the genital area, groin, inner thighs, or
23 buttocks of a child, or causing a child to touch, directly or
24 through clothing, the genital area, groin, inner thighs, or
25 buttocks of the perpetrator or another; sexual abuse does not
26 include reasonable touching in the exercise of normal caretaker
27 responsibilities for a child or normal caretaker interactions
28 with a child or touching performed for the purpose of adminis-
-4- tering a recognized and lawful form of treatment that is

*notify ct [12] 24 hrs.
Still notify parents 12.
Allows OPS time to determine
if should maintain custody
unnecessary paperwork*

*Child in need of aid
proceedings =
when OPS may
provide services.
Not a prosecution
statute - 11.41.410...
sexual assault in 1st - 4th
degree (penetration +
contact)
age brackets*

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reasonably adapted to promoting the physical or mental health of the child;

(C) exposing the genital area, anus, breast, groin, or buttocks of a child to the perpetrator or another for the sexual gratification of the child, the perpetrator, or another, or exposing the genital area, anus, breast, groin or buttocks of the perpetrator or another to a child for the sexual gratification of the child, the perpetrator, or another; or

(D) statements to a child that express a desire or intent to have sexual contact or sexual penetration with the child or encourage the child to have sexual contact or sexual penetration with the perpetrator or another.

* Sec. 11. AS 47.17.010 is amended to read:

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

* Sec. 12. AS 47.17.020 is repealed and reenacted to read:

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

Current statute unclear - not always in best interests of child to remain w family. ~~seems to be correct~~

(10) guardian or conservator

Current school teachers & admin.

(licensed) day care providers & staff

report DFYS vs. police
Current statute defines
abuse (47.17.070) as
neglect by person
responsible for child's
welfare. So reporting was
required only of family
members. Expanding to include
definition (sec 27) to include
non-family of offender.
Necessitates gov't taking
to report.

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- (1) practitioners of the healing arts;
- (2) employees and volunteers of private and public schools;
- (3) human services providers; (social workers)
- (4) peace officers, and officers of the Department of Corrections;
- (5) administrative officers of institutions;
- (6) child care providers; (foster homes)
- + (7) counselors, including church counselors and therapists, whether licensed or not;
- + (8) court investigators;
- + (9) employees and volunteers of domestic violence programs, sexual assault programs, or crisis shelters.

(b) A person listed in (a) of this section, who in the performance of the person's (professional) occupational duties has cause to believe that a child has suffered harm as a result of abuse or neglect by a person responsible for the child's welfare, shall promptly report the harm to the nearest office of the department. If the person making a report of harm under this subsection cannot reasonably contact the nearest office of the department and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall take immediate action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department.

(c) A person listed in (a) of this section, who in the performance of the person's occupational duties has cause to believe that a child has suffered harm as a result of abuse or neglect, shall promptly report the harm to the nearest law enforcement agency if the person making the report () has cause to believe that the harm was caused by a person who is not responsible for the child's welfare or (2) if

Contact law enforcement if can't tell who. Then, Sec 14 ->

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unable to determine (A) who caused the harm to the child, or (B) whether the person who is believed to have caused the harm has responsibility for the child's welfare. If a person making a report under this subsection cannot reasonably contact the nearest law enforcement agency, and immediate action appears necessary for the well-being of the child, the person shall make the report to the nearest office of the department. The department shall take immediate action to protect the child and shall, at the earliest opportunity, notify the nearest law enforcement agency.

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

* Sec. 13. AS 47.17 is amended by adding a new section to read:

Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person who, in the course of processing or producing visual or printed matter, either privately or commercially, has reason to believe that the matter visually depicts a minor engaged in conduct described in AS 11.41.455(a) shall promptly report this to the nearest law enforcement agency. The person shall provide copies of the material to the law enforcement agency along with all information known about the origin of the matter.

new

* Sec. 14. AS 47.17.025 is repealed and reenacted to read:

Sec. 47.17.025. DUTIES OF PUBLIC AUTHORITIES. (a) After receiving a report of harm to a child resulting from abuse or neglect by a person responsible for the child's welfare, a law enforcement agency

*reporters
turn over to DFYS
if determine
family offense*

WORK DRAFT

WORK DRAFT

WORK DRAFT

current law - only addresses intra-family abuses
1) proper notify DFYS immediately
2) DFYS investigate & notify law
3) within 72 hrs, written report to law

adds lang. about non-family offenses

shall immediately notify the Department of Health and Social Services and the Department of Law. The Department of Health and Social Services shall investigate the report and, within 72 hours after receiving the report, shall provide a written report of its investigation to the Department of Law for review. If after a preliminary investigation the Department of Health and Social Services determines that the harm was not caused by a member of the child's family, the department shall so notify the Department of Law.

(b) A report of harm to a child from abuse or neglect required from the department by this section must include:

- (1) the names and addresses of the child and the child's parents or other persons responsible for the child's care if known;
- (2) the age and sex of the child;
- (3) the nature and extent of the harm to the child;
- (4) the name and age and address of the person known or believed to be responsible for the harm to the child, if known;
- (5) information that the department believes may be helpful in establishing the identity of the person believed to have caused the harm to the child.

* Sec. 15. AS 47.17.040(b) is amended to read: *confidentiality*

(b) Investigation reports and reports of harm filed under this chapter are considered confidential and are not subject to public inspection and copying under AS 09.25.110 and 09.25.120. However, in accordance with department regulations, investigation reports may be used by appropriate governmental agencies with child-protection functions, inside and outside the state [ALASKA], in connection with investigations or civil or criminal [JUDICIAL] proceedings involving [CHILD] abuse, neglect, or child custody. A person, not acting in accordance with department regulations, who makes public information

State vs whether harm "judicial" meant only civil (CINA is civil)

1 contained in confidential reports is guilty of a misdemeanor.

2 * Sec. 16. AS 47.17.050 is amended to read:

3 Sec. 47.17.050. IMMUNITY. A person who, in good faith, makes a
4 report under this chapter, or who participates in civil or criminal
5 [JUDICIAL] proceedings related to the submission of reports under this
6 chapter, is immune from any civil or criminal liability that [WHICH]
7 might otherwise be incurred or imposed.

same

8 * Sec. 17. AS 47.17.060 is amended to read:

9 Sec. 47.17.060. EVIDENCE NOT PRIVILEGED. Neither the physi-
10 cian-patient nor the husband-wife privilege is a ground for excluding
11 evidence regarding a child's harm, or its cause, in a civil or crimi-
12 nal [JUDICIAL] proceeding related to a report made under this chapter.

13 * Sec. 18. AS 47.17.064 is repealed and reenacted to read:

14 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. The department or a
15 practitioner of the healing arts may, without the permission of the
16 parents, take the following actions with regard to a child believed to
17 have suffered physical harm as a result of abuse or neglect by a
18 person responsible for the child's welfare

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

21 (2) if medically indicated, have a radiological examination
22 of the child performed by a person who is licensed to administer a
23 radiological examination.

24 * Sec. 19. AS 47.17.068 is repealed and reenacted to read:

25 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person
26 who knowingly fails or refuses to report as required under AS 47.17.-
27 020 of 47.17.023 is guilty of a class B misdemeanor.

28 * Sec. 20. AS 47.17 is amended by adding a new section to read:

29 Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) The attorney

*because removed phrase
"responsible for child's
welfare" from definition
of abuse, necessary here
to add it back in!
Don't change intent!*

*class B - 90 day term
penalty unchanged
film process*

Hein: But then requiring physician to report every injured child that comes in!

1 general may bring an action to enjoin or limit a person from contact
2 with a child not related to the person if the person

3 (1) has sexually abused a child;

4 (2) has physically abused a child;

5 (3) has failed without lawful excuse to provide necessary
6 food, care, clothing, shelter, supervision, or medical attention for a
7 child entrusted to the care of the person; or

8 (4) otherwise constitutes a substantial danger to the
9 mental, emotional, or physical welfare of a child.

10 (b) The court may grant an order in the form that is best suited
11 to protect a child from harm based upon the facts of the case. This
12 section does not limit the authority of the attorney general or the
13 court to act to protect a child.

14 * Sec. 21. AS 47.17.070(1) is amended to read:

15 (i) "[CHILD] abuse [OR NEGLECT]" means nonaccidental [THE

16 physical injury [OR NEGLECT], sexual abuse, sexual exploitation, or
17 maltreatment of a child [UNDER THE AGE OF 16 BY A PERSON WHO IS RE-
18 SPONSIBLE FOR THE CHILD'S WELFARE] under circumstances that [WHICH]
19 indicate that the child's health or welfare is harmed or threatened
20 thereby;

21 * Sec. 22. AS 47.17.070(6) is amended to read:

22 (6) "practitioner of the healing arts" includes chiroprac-
23 tors, dental hygienists, dentists, health aides, nurses, nurse practi-
24 tioners, optometrists, osteopaths, physical therapists, physicians,
25 physician's assistants, psychiatrists, psychologists, psychological
26 associates, religious healing practitioners, and surgeons;

27 * Sec. 23. AS 47.17.070(7) is repealed and reenacted to read:

28 (7) "sexual exploitation" means
29 (A) permitting, encouraging, inducing, or employing a

neglect both defined
child 47.17.070
"responsible for child's welfare"
has been added in as necessary

Sipe: primary definition for separating - Raises ambiguity how know if accidental?

inducing, or employing a

Same conduct against child should be reported whether caused by family or non-family member.

takes out "by person responsible for child's welfare"

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child to engage in prostitution or in the promotion of prostitution as set out in AS 11.66.100 - 11.66.150; or

(B) engaging in conduct described in AS 11.41.455;

* Sec. 24. AS 47.17.070 is amended by adding new paragraphs to read:

(8) "child care provider" means an adult individual, or an employee or volunteer of an organization, who provides care and supervision to a child;

(9) "human services provider" includes an individual human services provider, and an employee or volunteer of a human services organization, such as a social service, youth service, mental health, or substance abuse agency, or a shelter for runaway or homeless youth;

(10) "organization" means a group or entity that provides care and supervision to a child not related to the caregiver, and includes a child care facility, pre-elementary school, head start center, child foster home, residential child care facility, recreation program, children's camp, and children's club;

(11) "person responsible for the child's welfare" means the child's parent, guardian, foster parent, a person responsible for the child's care at the time of the alleged abuse or neglect, or a person responsible for the child's welfare in a public or private residential agency or institution.

* Sec. 25. AS 47.35.070 is amended to read:

Sec. 47.35.070. VIOLATIONS. A person who violates a provision of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted under this chapter [AS 47.35.010 - 47.35.100] is guilty of a class 3 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$200]

* Sec. 26. AS 47.35.070 is amended by adding a new subsection to read:

(b) The department may by regulation devise a system of civil

*class B - 90 day
conforming per
criminal code
fine allowed
sec 26*

*not
relating
state
def
from
court*

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enforcement. The system may employ civil penalties not to exceed \$200 for each day during which one or more violations of a licensing statute or licensing regulation occurs. The imposition of a civil penalty does not prevent prosecution and sentence for a criminal offense.

health & safety infractions?

Introduced: 1/23/85
Referred: Health, Education & Social Services
and Judiciary

1 IN THE SENATE

BY DEVRIES

2

SENATE CONCURRENT RESOLUTION NO. 3

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

Relating to background checks on school

6

district employees who come into contact

7

with children.

8

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

9

WHEREAS sexual abuse of minors is a serious and widespread problem;

10 and

11

WHEREAS existing law permits employers of individuals having contact

12

with children to obtain certain information on convictions of these indi-

13

viduals relating to sex crimes (AS 12.62.035);

14

BE IT RESOLVED by the Alaska State Legislature that local school

15

districts are encouraged to implement appropriate background checks on all

16

school district employees who come into contact with children.

Introduced: 2/12/85
Referred: Judiciary

BY RODEY, V. FISCHER,
KERTTULA, HALFORD,
STURGULEWSKI, FAIKS,
AND ZHAROFF

1 IN THE SENATE

2

SENATE CONCURRENT RESOLUTION NO. 5

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

Relating to printing pictures of and

6

information about missing children on

7

milk cartons.

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

9 WHEREAS thousands of children in the United States are abducted each
10 year; and

11 WHEREAS a lack of coordination among law enforcement agencies in
12 different jurisdictions has made it difficult to locate missing children
13 taken across state lines; and

14 WHEREAS milk carton manufacturers have developed a program to print
15 the pictures of missing children and information about them on millions of
16 milk cartons across the country; and

17 WHEREAS the program provides wide dissemination on a product that has
18 a short shelf life, allowing frequent rotation of pictures and information:
19 and

20 WHEREAS the program already has been responsible for the return of
21 some missing children;

22 BE IT RESOLVED by the Alaska State Legislature that milk producers and
23 distributors in the state are respectfully requested to participate fully
24 in the program and encourage others in the dairy industry to participate.

CHILD AND FAMILY PROTECTION

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NOTE: References to Senate bills correspond to House bills as follows:

SB 3.....HB 67
SB 21.....HB 308
SB 86.....HB 19
SB 243.....HB 88
SCR 3.....HCR 2

MISSING PERSONS

1) Clearinghouse for Central Registry

EXISTING

Under the authority of AS 12.62, which allows for adoption of procedures to facilitate and regulate the exchange of criminal justice information, the Department of Public Safety accepts missing person reports from local law enforcement agencies. Reports are entered as "locates" in the Alaska Public Safety Information Network (APSIN), and after 48 hours are transferred to the "missing person" list. This computer system is capable of accessing the National Crime Information Center (NCIC, a comprehensive tracking system for missing persons and the unidentified dead established by the FBI), and names are currently entered into the NCIC on a discretionary basis.

PROPOSED

SB 86 would require that within 24 hours of receipt of a missing minor report, the law enforcement agency transmit the report for entry into APSIN and NCIC. Within 24 hours of locating the minor, the information must be removed from the computer.

2) Unidentified Deceased Persons

EXISTING

As mentioned in (1), the Department of Public Safety has the capability of accessing NCIC.

3) Eliminating Waiting Periods

EXISTING

Current statute does not specify a waiting period for filing a missing person report. However, statistics show that missing persons generally return within 48 hours, so many law enforcement agencies do wait 24-48 hours.

PROPOSED

SB 86 would require that, upon receiving a request to locate a missing or runaway minor, a law enforcement agency make reasonable efforts to locate the minor and immediately complete a missing person's report. As soon as practicable, but not later than 24 hours after completing the report, it must be entered into APSIN and NCIC.

CHILD ABUSE AND EXPLOITATION

1) Child Abuse Reporting

EXISTING

AS 47.17.020 lists those persons required to report incidents of child abuse and neglect. Reports are made to the Department of Health and Social Services or to a police officer. The Department must investigate the harm, and provide a written report to the Department of Law. Failure to report (AS 47.17.068) is a Class B misdemeanor.

PROPOSED

SB 243, Section 12 expands the list of those people required to report. In addition it clarifies that intra-family offenses are to be reported to the Department of Health and Social Services and other offenses to police officers, but allows reports to be made to either. This reflects the Department's current scope of services, which is limited to intra-family offenses.

2) Child Protection Teams

EXISTING

Several local areas (Mat-Su, Fairbanks, Homer, Kenai, Dillingham) have adopted a team investigation approach to child sexual abuse cases. Commonly, a complaint is filed with DFYS, who contacts the troopers if a crime has been committed. The troopers interview the child, the offender, and the non-offending parent. A physician performs a sexual assault exam on the child. A non-profit advocacy group counsels the non-offending parent. The troopers are the central information point, and once all the information is gathered they take it to the District Attorney.

PROPOSED

SB 27 would appropriate \$235,900 to the Council on Domestic Violence and Sexual Assault for training teams of community professionals. The Council proposes to provide training to the Division of Family and Youth Services, troopers, medical personnel, district attorneys, sexual assault and mental health programs, private therapists, teachers, police, and others.

3) Physical Exams

EXISTING

Under the authority of AS 18.68.010, the Department of Public Safety has developed a sexual assault examination kit, and has provided training for state and local law enforcement officials and physicians. Protocols governing the use of the kit

have been developed. Troopers pay for exams done as part of an investigation. The Violent Crimes Compensation Board (AS 18.67) pays for follow-up medical exams on a funds available basis.

The Board received \$564,200 in FY 85, and currently has a supplemental appropriation request of \$300,000 pending. The FY 86 budget request is \$564,200. All claims are awarded on a funds available basis.

PROPOSED

The protocols have not been developed specifically for child victims. A formal letter to the Department urging that the protocols be expanded to address the needs of child victims is being prepared.

4) Emergency Protection

EXISTING

AS 47.10.142 authorizes the Department of Health and Social Services to take emergency custody of a child who has been abandoned, for whom medical attention is necessary, for whom removal from surroundings is necessary to protect the minor's life, or who has been sexually abused by the child's guardian.

AS 47.10.140(f) allows a peace officer to detain a minor who is evading the minor's guardian for purposes of returning the minor to the guardian or to the Department of Health and Social Services.

AS 47.10.142(b) allows a child who has left home to obtain services from the Department of Health and Social Services.

PROPOSED

Section 9, SB 243 allows the Department 24 hours in which to file a petition with the court alleging that a child should remain in state custody. This provides the Department an opportunity to determine if continued custody is necessary and avoid filing paperwork if it is not.

SB 86 would clarify that, in instances where detention or arrest is not warranted, a peace officer may take protective custody of a missing or runaway minor.

5) Limiting the Number of Interviews

EXISTING

Per the Department of Law, Public Safety, Health and Social Services, and Corrections interagency agreement (September 1984), protocols to limit the number of interviews of a child victim are being developed. The agencies are currently finalizing procedures, which will be available to communities