

ALASKA LEGISLATIVE COMMITTEE FILES 1985-1986 86/2

4014 SJUD CHILD PROTECTION 890



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James O. Smith

Signature of Camera Operator

11/7/89

Date

CHILD

PROTECTION

ANCHORAGE
YOUTH - AT - RISK
REPORT

A Report Prepared By:

The Youth-At-Risk Steering Committee

And

The Anchorage Commission On Youth

And

The Department of Social Services

October, 1984

MEMORANDUM

TO: CHILD PROTECTION WORK GROUP

FROM: KEVIN K. BRUCE

DATE: MARCH 7, 1985

RE: PROPOSED CONCURRENT RESOLUTION

The purpose of this concurrent resolution is to establish a Children's Code Task Force to review and revise the laws pertaining to children and the family unit.

It is expected that the task force will make recommendations in these and similar areas: the Indian Child Welfare Act, adoption procedures, runaways, juvenile commitment procedures, institutional placement, foster care review and parental rights matters. The above list is only illustrative in nature and should not be construed as necessarily including or excluding any subject area.

The resolution is also intended to assist the legislature in it's current effort in the area of child protection. Given the remaining time available for addressing substantive legislation, it is felt interim work in this area can finalize proposals for the second session in 1986.

The attached fiscal note would only allow for travel funds for appointed task force members. Travel for legislators, staff and administrative members would come from existing accounts and resources. The fiscal note reflects a "best guess" as to travel expenses since it is currently unknown who would be appointed to the task force.

SENATE CONCURRENT RESOLUTION

WHEREAS THE LAWS PERTAINING TO THE FAMILY UNIT, AND PARTICULARLY, CHILDREN, ARE VITAL TO ALASKAN SOCIETY; AND

WHEREAS THE GENERAL AREA OF FAMILY AND JUVENILE LAW IS A CONTINUALLY GROWING AND EXPANDING DISCIPLINE; AND

WHEREAS THE LEGISLATURE HAS DEMONSTRATED A COMPELLING INTEREST IN IMPROVING AND EXPANDING LAWS RELATED TO CHILD PROTECTION; AND

WHEREAS THIS CHILD PROTECTION EFFORT IS INEXORABLY LINKED TO OTHER AREAS OF FAMILY LAW; AND

WHEREAS IT WOULD BE BENEFICIAL TO PARENTS, ATTORNEYS, LAY PEOPLE, AND ADMINISTRATIONS OF VARIOUS STATE AND LOCAL AGENCIES WHO HAVE DUTIES AND RESPONSIBILITIES WITH REGARD TO CHILDREN AND OTHER FAMILY MATTERS TO BRING CONFORMITY TO ALASKAN LAW IN THIS AREA;

THEREFORE BE IT RESOLVED BY THE ALASKA STATE LEGISLATURE THAT THE LEGISLATIVE COUNCIL IS DIRECTED TO REVIEW EXISTING LAWS RELATING TO CHILDREN SPECIFICALLY AND THE FAMILY IN GENERAL, AND ACCOMPLISH ANY NECESSARY REVISION TO HARMONIZE CONFLICTS, SUPPLY OMISSIONS, AND GENERALLY CLARIFY THE LAWS PERTAINING TO THE FAMILY.

BE IT FURTHER RESOLVED BY THE ALASKA STATE LEGISLATURE THAT THE LEGISLATIVE COUNCIL IS DIRECTED TO APPOINT A COMMITTEE OF PROFESSIONALS, LAY PEOPLE, AND ADMINISTRATION MEMBERS TO ASSIST THE COUNCIL IN THEIR EFFORTS.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: _____
Title: WAGE AND TAX ADJUSTMENTS

FISCAL DETAIL

Agency Affected: LEGISLATIVE COUNCIL
Program Category Affected: _____

Sponsor: _____
Requestor: _____
Date of Request: _____

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						
200 TRAVEL	8.5					
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	9.5					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: _____ Phone: _____
Division: _____ Date: _____

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

511 24876 dha

Alaska State Legislature

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



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SENATE ADVISORY COUNCIL

M E M O R A N D U M

Memo from Elizabeth J. Hickerson to Kern Bruce

TO: SENATOR JAN FAIKS
FROM: ELIZABETH J. HICKERSON *ejh*
SUBJECT: CHILD AND FAMILY PROTECTION LEGISLATIVE PACKET
DATE: MARCH 25, 1985

In the last month, at your request, I have been involved in the meetings held by the Senate and House HESS and Judiciary Committees regarding the overall needs in Alaska concerning child and family protection. The Committee reviewed all recommendations presented by John Walsh and pending legislation. Sandra Schubert did an excellent job in providing a comparison between what Mr. Walsh suggested and the existing conditions in Alaska. A number of bills have been recommended for the legislature's consideration. During the committee's review of these various bills, numerous concerns were raised. Many of these concerns are not reflected in the various bills. Because of this, I would like to take this opportunity to inform you on the specific concerns raised.

SB 3/HB 67, Hearsay Evidence

In the discussions regarding hearsay evidence and its admission at the grand jury, several concerns were raised. These I will summarize as follows.

1. Whether or not there is a need to expand our present hearsay exceptions to provide for this particular type of evidence to be presented to the grand jury was questioned. It is felt, by some, that under our present rules of evidence, this type of hearsay is already admissible.
2. If a hearsay exemption is adopted, many feel that this should be limited to admissions or statements of the child victim only. As presently drafted, SB 3 provides for the statement of any child, not necessarily the victim of a sexual assault. Dana Fabe, the Public

Defender, is very concerned that this exception be narrowly drawn and only apply to the child victim.

SB 8, School curriculum

This bill reflects the need by the local school districts to adopt a personal safety curriculum. Teaching children the difference between good touch and bad touch, what to do in case of a personal emergency situation, and what protections are available to children, is an initial step in the prevention of child abuse. This is particularly true in the event that families are not teaching personal safety to children. Since most child abuse occurs in the home it is doubtful that those parents and relatives teach children that this is improper behavior. This bill or similar legislation is definitely needed. In Alaska, some school districts presently provide this type of program, however, it is usually provided on an intermittent basis and is not a part of the ongoing curriculum.

SB 21/HB 308, Background Checks

These bills provide that interested persons may request a list reflecting all convictions of an individual for crimes that might cause a risk of harm to children, if the individual holds or applies for a position in which the individual has or would have a supervisory or disciplinary power over a minor. Crimes that might pose a risk of harm to children are defined and are numerous. There may be some opposition to the individual crimes that are included in this definition. There may also be concern that the existence of an outstanding warrant will be available for release. Concerns were raised that this type of a background check on an individual does not take into consideration that person who has been convicted has served his or her time and should not face reprimand from society. Also regarding the outstanding warrants, people are concerned that an outstanding warrant is not based on a conviction and thus persons that have not been proven guilty will be subjected to possible retaliation through unemployment.

In addition to these concerns, people have stated that background checks should not be optional but should be mandatory. When I attended the Anchorage Crime Commission, the issue was raised that persons that contract with the Anchorage School District are not covered under this bill. It was particularly felt that school bus drivers and other persons under contract in direct association with children should be subject to background checks.

SB 27, Community Training

This bill provides funds for the training of local persons who are involved in the prevention, intervention, investigation and counseling of child victims of sexual assault. The persons

reviewing this bill consistently felt that this was a high priority.

SB 28, Reporting Incidents of Abuse

This bill has passed the Senate. It requires the training of state employees who are required to report the instances of child abuse as well as employees of school districts. This bill also received high priority by the committee. Concern has been voiced that children should be able to petition the court by themselves, and not limited through a parent, guardian or custodian. I support the limiting provision.

SB 88/HB 19, Missing and Runaway Children

Presently law enforcement agencies may detain runaways. These two bills do provide that the agencies shall transmit a runaway report into the Alaska Public Safety Network and the National Crime Information Center Computer System. In regard to the issue of runaways, it should be noted that there is an inadequate number of foster homes and group homes for these children. While everyone realizes that we have a problem with runaways, most people in the field believe that children are running away for reasons. Many of the runaways have been abused at home and thus returning them to an unsafe situation may not be in the best interest of the children. Without adequate facilities for housing runaways it is unclear where these children will be detained since the bills prohibit housing runaways in jails or detention facilities.

SCR 3/HCR 2, School Teacher Background Checks

These bills urge local school districts to implement background checks on all school district employees who come into contact with children. The issue has been raised that school districts should be required to provide background checks for all persons employed and persons under contract.

SCR 5, Missing Children on Milk Cartons

This resolution has already been read by the Governor.

SB 243/HB 88, The Omnibus Bill

These bills make several changes to civil and criminal laws. Most of the time was spent by the committee on these bills, and therefore, I would like to provide you with a list of concerns associated with each section.

Sec. 1 and Sec. 2 expand the current law regarding endangering the welfare of a minor. Two degrees for endangering the welfare of a minor are created. Presently we have only one law regarding endangering the welfare of a

minor. These sections were introduced by the Governor in a response to child care workers who endanger children. Under existing law a child care worker who physically or sexually abuses a child may be prosecuted. However, it was felt by the Department of Law, Criminal Division, that an additional law needed to be enacted to cover other forms of endangerment of minors by a child care provider. The expansion of the law as provided under Section 2 has been highly criticized by the Public Defender's Office. It is their concern that parents will be subject to criminal prosecution for injuries sustained by their children which are often beyond their control.

Sec. 3 and 4 provides a new definition for the distribution of child pornography. Kevin Bruce and I developed this definition based on a recent Supreme Court decision. The expanded definition of distribution provides that people can be prosecuted for the distribution of child pornography if they deliver, sell, rent, lease, lend, give, circulate, exhibit, present or buy or exchange these types of items, whether or not it was done for monetary or other consideration. I feel strongly that this provision is constitutional and leaves no legal loopholes.

Sec. 5 extends the statute of limitation for prosecution of sexual offenses against minors. No one objected to this provision.

Sec. 6 specifically provides that evidence of past sexual conduct of child victims of sexual assault will not be admissible prior to an in camera hearing. The judge would weigh the probative value of the evidence against the probability that undue prejudice, confusion of the issues or invasion of privacy of the victim will result. Presently our law provides this for victims of sexual assault. While no evidence was presented that child victims are being treated differently than adult victims, the Department of Law, Criminal Division, felt that the legislature should express its intent that children are to come under the protections of this section. My concern is that we may be setting a bad precedent whereby sections not so modified so as to particularly relate to children may be later interpreted as an intent not applied to children.

Sec. 7 provides for a reduction in time for a predisposition report involving a delinquent minor to be made available to the child, the child's parents, attorneys representing the parties, and the guardian ad litem. Presently this must be made available not less than ten days before the disposition hearing. Great discussion was involved on this section.

Originally HB 88 reduced the time to two days, and therefore, six days reflects a compromise that will be acceptable to most. The reason this time period should not be reduced to two days is the importance that is place on a predisposition report. Because of this, sufficient time should be available to review the report and investigate alternatives that may not have been recommended.

Sec. 8 provides more discretion for taking emergency custody of a minor by the Department of Health and Social Services. The expanded authority is subtle under these changes. Numerous people including the Public Defender, guardians ad litem, and parents have stated that the Department has wide discretion to take emergency custody of a child presently. I believe that the problem concerning custody is a problem associated with inadequately trained social workers who do not have the necessary skills to determine when a child should be taken into emergency custody. While abuses of the system are few, there have been situations where children have been taken by the Department and lengthy and costly time has been spent in retrieving the children. This poses one of the main problems with child protection. We should provide adequate laws and properly trained people in order to be able to intervene in dangerous situations. However, given the nature of these situations, zealots and incompetents can cause tremendous hardships for families where abuse does not exist. In addition, there is still a problem with an inadequate number of foster homes to care for the children taken into custody.

Sec. 9 is very controversial. This allows the Department additional time to notify the court after the child has been taken into their custody. Presently the court must be notified within 12 hours through a petition filed alleging that a child is in need of aid. A hearing must be held 48 hours after the petition is filed. The proposed change provides that the court will be notified within 24 hours after custody was assumed and then must hold a hearing within 48 hours after that. Therefore, we are extending the time that probably cause hearing must be held. This can be very dangerous, particularly in cases where children were taken without probable cause.

Another issue focuses on notice to parents. Judge Victor Carlson stated in a memo to Carla Forsythe of the Court System, that a letter indicating legislative intent should be attached to any revision concerning this statute. In part, his letter stated the following:

A note expressing the legislative intent that every effort be made to notify the custodian when a child has been 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 has been taken into custody without a court order and a sworn statement of probable cause should be 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.

In addition it has been raised by guardians ad litem that more teeth are needed in this statute for violations by social workers. It has been suggested that civil penalties be imposed for failure to notify the parents or custodians within the time specified.

Sec. 10 expands the definition of sexual abuse. This definition has been criticized by many. The arguments can be summarized in one question: what is the definition of "normal caretaker interactions"? It is feared that actions of parents who have a healthy relationship with their children which includes normal touching, caressing and general loving will fall within the definition of sexual abuse.

Sec. 11 changes the present purpose statement regarding protective services for children. Presently, the Department is to provide protective services, and do so in an effort to prevent future harm to the child, to safeguard and enhance the general well being of the children in this state, and to preserve family life whenever possible. The change advocated here is that the Department will act to preserve family life whenever preserving it is in the best interest of the children. This change was in response to the suggestion that the Department often puts children back into harmful environments which is contrary to the best interest of the child. The Department has stated that this is done because the intent of the legislation governing their action has been to preserve the family unit. I support this change since all protective service should be done in the best interest of the child.

Sec. 12 modifies our reporting statute on child abuse and neglect cases. The persons required to report have been expanded. There may be some opposition to some of the persons required to report under this section, particularly volunteers and counselors. I suggested that guardians and conservators also be required to report these instances, however, SB 243 does not reflect that.

This section changes the procedures to be followed in reporting instances of child abuse and neglect. Presently

all reports are to be made to the nearest office of the Department, if that is not available, then people are to contact the nearest office of law enforcement. In reality, cases of abuse or neglect can be reported to either, and in many situations the first agency notified is law enforcement. SB 243, changes this procedure, and in my opinion makes it more difficult for people to report. I base this on the fact that the bill specifies that persons required to report these instances should report instances of harm believed to be caused by a person responsible for the child's welfare to the Department. However, if a person believes that the harm has been caused by a person not responsible for the child's welfare, or is unable to determine who caused the harm to the child, the local law enforcement agency is to be notified. I feel that this change creates an additional burden for persons required to report instances of child abuse and neglect and also imposes a burden on those persons to determine who caused the injury. This can particularly be bad public policy when we are requiring individuals who are not trained in counseling to make the initial inquiry with the child. According to Don Edwards, at the Division of Human Services of the AG's Office, he prefers the existing law which requires that all reports to be made to the Department of Health and Social Services.

Sec. 13 requires that persons who, in the course of processing or producing printed matter, be required to report materials which depict a minor engaged in activity that is defined as pornography. I think that this is a very needed provision in order to stop the processing of child pornography.

Sec. 14 describes the procedure that must be followed by the Department of Health and Social Services once a report of harm is received.

Sec. 15 clarifies that investigation reports may be used by appropriate governmental agencies inside and outside the state.

Sec. 16 clarifies that civil or criminal immunity will be given a person who, in good faith, makes a report of child abuse or neglect.

Sec. 17 provides that the physician/patient and the husband/wife privileges are not grounds for excluding evidence of a child's harm in a civil or criminal proceeding.

Sec. 18 allows the Department or a practitioner of the healing arts, without the permission of the parent, to take photographs or perform radiological examinations of a child

believed to have suffered physical harm as a result of abuse or neglect by a person responsible for the child's welfare.

Sec. 19 deletes the wording "who willfully fails to report" from the statute. Willfully has been determined to be archaic language and thus, is removed from this section. Therefore, the penalty reads, "a person who knowingly fails or refuses to report is guilty of a Class B misdemeanor in cases of suspected cases of child abuse or neglect."

Sec. 19 gives the Attorney General the right to seek a protective injunction. The injunction may limit a person from contact with a child not related to the person, if the person has sexually abused a child; has physically abused a child; has failed, without lawful excuse, to provide necessary food, clothing, care, shelter, supervision or medical attention for a child entrusted to the care of the person; or otherwise constitute substantial danger to the mental, emotional or physical welfare of a child. The intent of this section is to bring injunctions against child care providers. Some criticism was raised that this is subject to abuse by the system.

Sec. 21 redefines abuse and is necessary according to the Department of Health and Social Services.

Sec. 22 expands the persons that are included under the definition of practitioner of the healing arts, and did not receive any criticism.

Sec. 23 expands the definition of sexual exploitation, and did not receive any criticism.

Sec. 24 provides additional definitions for child care provider, human services provider, organization and person responsible for the child's welfare. These definitions are important because they expand the numbers of individuals that are required by law to report suspected cases of child abuse and neglect. I have heard some criticism that these definitions are overly broad.

Sec. 25 provides that a person who violates a provision of this chapter or regulation adopted under this chapter is guilty of a Class B misdemeanor. The civil fine is removed.

Sec. 26 provides that the Department may devise a system of citations for enforcement of this chapter. It is the feeling that civil penalties are more of a deterrent for violations of the chapter and, therefore, a system of enforcement should be created. This section may carry a large fiscal note.

Child Protection Packet

March 25, 1985

Page 9

I will be available to discuss these bills and any other legislation concerning child protection.

STATE OF ALASKA
THE LEGISLATURE

FOUCH Y. STATE CAPITOL
JUNEAU ALASKA 99811
907-455 3820


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 20, 1985

SUBJECT: Changes in criminal statutes of limitation
(Work Order No. 14-1401).

TO: Senator Pat Rodey

FROM: Richard A. Bradley 
Legislative Counsel

You have requested that we comment on the following question: May the legislature extend the statute of limitations for a particular criminal offense?

The question requires a construction of ex post facto provisions of our constitutions: art. I, sec. 10, cl. 1 of the United States Constitution and art. I, sec. 15, cl. 1 of the Alaska Constitution.

The Alaska Supreme Court explained the concept of an ex post facto law in Danks v. State, 619 P.2d 720 (Alaska 1980). An ex post facto law, the Court stated, is a law passed after the occurrence of a fact or commission of an act that retroactively changes the legal consequences of the fact or act.

The usual rule is that when a crime is committed, the statute of limitations then in effect controls the time within which a prosecution may be brought. The legislature may extend the limitations period without violating ex post facto provisions only if it does so before the prosecution is barred under the former law and if, some cases say, it clearly indicates that the new law applies to cases pending when it becomes effective. Andrews v. State, 392 So.2d 270 (Fla.App. 1980).

Thus a statute that attempts to extend the period after the earlier period has run as to a particular individual is an ex post facto law. Sobiek v. Superior Court in and for the County of San Mateo, 106 Cal.Rprt 516 (Cal. App. 1972).

The rule, therefore, is that such a law is not a facial violation of ex post facto concepts-- but only as applied.

And an extension of the statute is not ex post facto as to an individual for whom the statute of limitations had not run at the time of its effective date.

Extending a limitation period before a given prosecution is barred does not violate the ex post facto clause. Clements v. United States, 266 F.2d 397, 399 (9th Cir. 1959), cert. den. 359 U.S. 985 (1959). As the Supreme Court recently noted, "no ex post facto violation occurs if the change effected is merely procedural and does not increase the punishment nor change the ingredients of the offense or the ultimate facts necessary to establish guilt." Weaver v. Graham, 450 U.S. 24, 29 n. 12, quoting Hopt v. Utah, 110 U.S. 574, 590 (1884). The extension of the statute of limitations in this case was just such a "merely procedural" change. United States ex rel. Massarella v. Elrod, 682 F.2d 688, at 689 (7th Cir. 1982). [Emphasis in original.]

Accordingly, the law seems clear that the statute of limitations may be changed by the legislature at any time. A change made that extends the period will have no effect on those whose prosecution is barred at the time of the extension; those whose prosecution is not barred at the time of the extension may thereafter be prosecuted within the larger period set under the extension.

As the Andrews case suggested, a law that extends the statute of limitations, if intended to apply to cases not brought within the period of the former law, should state the legislative intent unequivocally. While this is good law generally, it is probably necessary to avoid the implications of AS 01.10.090; that section provides:

Sec. 01.10.090. RETROSPECTIVE STATUTES. No statute is retrospective unless expressly declared therein.

While it may be fairly argued that such an application is not "retrospective", a conservative drafting approach would acknowledge the existence of AS 01.10.090.

If I may be of further assistance, please advise.

RAB:mkr
M1:150

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

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 3 (Judiciary)

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 child's statement
14 related to the offense, not otherwise admissible, may be admitted into
15 evidence before the grand jury if

16 (1) the circumstances of the statement indicate its relia-
17 bility;

18 (2) the child is under 10 years of age when the hearsay
19 evidence is sought to be admitted; and

20 (3) the child

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

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

26 (b) In this section,

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

1 (2) "unavailable" means the child

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

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

7 (C) is absent from the hearing and beyond the juris-
8 diction of the court to compel appearance and the proponent of
9 the statement has exercised reasonable diligence in attempting to
10 procure the child's attendance.

11 (c) A child is not unavailable under this section if the un-
12 availability is due to the procurement or wrongdoing of the proponent
13 of the statement to prevent the child from attending or testifying.


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

A M E N D M E N T S

TO: SCS FOR CS FOR HB 88 (JUDICIARY)

Amendment #1, Page 2, delete Sec. 4, lines 3 through 26, and add:

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

Amendment #2, Page 2, delete Section 5, Lines 27 through 29, and on Page 3, Lines 1 through 3.

Amendment #3, Page 3, delete Section 6, Lines 4 through 12.

Amendment #4, Page 5, delete Section 9, Lines 15 through 27, and add:

AS 47.10.142(c) is amended to read:

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

Amendment #5, Page 6, Delete Line 6, except for the semi-colon.

*Renumber the following bill sections accordingly.

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 88 (Judiciary)

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 family members, and dependent adults; and providing
8 for an effective date."

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

10 * Section 1. AS 11.61.125(a) is amended to read:

11 (a) A person commits the crime of distribution of child pornog-
12 raphy if the person brings or causes to be brought into the state for
13 [SALE OR] distribution, or in the state distributes, or in the state
14 possesses, prepares, publishes, or prints with intent to distribute,
15 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-
16 ial that visually depicts conduct described in [UNDER] AS 11.41.-
17 455(a), knowing that the production of the material involved the use
18 of a child under 18 years of age who engaged in the conduct.

19 * Sec. 2. AS 11.61.125 is amended by adding a new subsection to read:

20 (d) In this section, "distribution" includes delivering, sell-
21 ing, renting, leasing, lending, giving, circulating, exhibiting,
22 presenting, providing, and exchanging, whether or not for monetary or
23 other consideration.

24 * Sec. 3. AS 12.10.020(c) is amended to read:

25 (c) Even if the general time limitation has expired, a prose-
26 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,
27 former AS 11.41.430, or former AS 11.51.130(a)(4), for an offense
28 committed against a person under the age of 16 may be commenced within
29 one year after the crime is reported to a peace officer or the person

1 reaches the age of 16, whichever occurs first. This subsection does
2 not extend the period of limitation by more than five years.

3 * Sec. 4. AS 12.45.045(a) is repealed and reenacted to read:

4 (a) In prosecutions for the crimes of sexual assault in any de-
5 gree, sexual abuse of a minor in any degree, or unlawful exploitation
6 of a minor, or an attempt to commit any of these crimes, evidence of
7 the complaining witness' previous sexual conduct may not be admitted
8 nor reference made to it in the presence of the jury except as pro-
9 vided in this section. A defendant who seeks to admit the evidence
10 for any purpose shall apply for an order of the court before the trial
11 if the evidence is sought to be introduced at trial or before the
12 preliminary hearing if the evidence is sought to be introduced at the
13 preliminary hearing, unless the defendant demonstrates that the defen-
14 dant, despite exercising due diligence, was unable to apply before the
15 trial or preliminary hearing. After the application is made, the
16 court shall conduct a hearing in camera to determine the admissibility
17 of the evidence. If the court finds that evidence offered by the
18 defendant regarding the sexual conduct of the complaining witness is
19 relevant, and that the probative value of the evidence offered is not
20 outweighed by the probability that its admission will create undue
21 prejudice, confusion of the issues, or unwarranted invasion of the
22 privacy of the complaining witness, the court shall issue a written
23 order stating what evidence may be introduced and the nature of the
24 questions that may be permitted. The defendant may then offer evi-
25 dence under the order of the court.

26 * Sec. 5. AS 25.35.070(a) is repealed and reenacted to read:

27 (a) A person who is subjected to domestic violence may petition
28 a superior court for injunctive relief restraining the infliction of
29 further domestic violence against the petitioner by the respondent.

1 The court may appoint a guardian ad litem or attorney to represent a
2 minor who is subject to this chapter in the same manner as an attorney
3 may be appointed under AS 25.24.310.

4 * Sec. 6. AS 25.35.060 is amended to read:

5 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic vio-
6 lence" means a crime under AS 11.41 when the victim is a spouse or a
7 former spouse of the respondent; a parent, grandparent, child, or
8 grandchild of the respondent; [,] a member of the social unit composed
9 [COMPRISED] of those living together in the same dwelling as the
10 respondent; [,] or a person who is not a spouse or former spouse of
11 the respondent but who previously lived in a spousal relationship with
12 the respondent.

13 * Sec. 7. AS 47.10.010(a) is amended to read:

14 (a) Proceedings relating to a minor under 18 years of age resid-
15 ing or found in the state are governed by this chapter, except as
16 otherwise provided in this chapter, when the court finds the minor

17 (1) to be a delinquent minor as a result of violating a
18 criminal law of the state or of a municipality of the state; or

19 (2) to be a child in need of aid as a result of

20 (A) the child being habitually absent from home or
21 refusing to accept available care, or having no parent, guardian,
22 custodian or relative caring or willing to provide care, includ-
23 ing physical abandonment by

24 (i) both parents,

25 (ii) the surviving parent, or

26 (iii) one parent if the other parent's rights and
27 responsibilities have been terminated under AS 47.10.080 or
28 voluntarily relinquished;

29 (B) the child being in need of medical treatment to

1 cure, alleviate, or prevent substantial physical harm, or in need
2 of treatment for mental harm as evidenced by failure to thrive,
3 severe anxiety, depression, withdrawal, or untoward aggressive
4 behavior or hostility toward others, and the child's parent,
5 guardian, or custodian has knowingly failed [PARENTS ARE UNWILL-
6 ING] to provide the [MEDICAL] treatment;

7 (C) the child having suffered substantial physical
8 harm or if there is an imminent and substantial risk that the
9 child will suffer such harm as a result of the actions done by or
10 conditions created by the child's parent, guardian or custodian
11 or the failure of the parent, guardian or custodian adequately to
12 supervise the child;

13 (D) the child having been, or being in imminent and
14 substantial danger of being, sexually abused either by the
15 child's parent, guardian or custodian, or as a result of con-
16 ditions created by the child's parent, guardian or custodian, or
17 by the failure of the parent, guardian or custodian adequately to
18 supervise the child;

19 (E) the child committing delinquent acts as a result
20 of pressure, guidance, or approval from the child's parents,
21 guardian or custodian;

22 (F) the child having suffered substantial physical
23 abuse or neglect as a result of conditions created by the child's
24 parent, guardian or custodian.

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

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

29 (1) the minor has been abandoned;

1 (2) the minor has been grossly neglected by the minor's
2 parents or guardian as "neglect" is defined in AS 47.17.070(5), and
3 the department determines that immediate removal from the minor's
4 surroundings is necessary to protect the minor's life or provide
5 immediate necessary medical attention;

6 (3) the minor has been subjected to child abuse or neglect
7 by a person responsible for the minor's welfare, as "child abuse or
8 neglect" is defined in AS 47.17.070(1), and the department determines
9 that immediate removal from the minor's surroundings is necessary to
10 protect the minor's life or that immediate medical attention is neces-
11 sary; or

12 (4) the minor has been sexually abused under circumstances
13 listed in AS 47.10.010(a)(2)(D).

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

15 (c) When a child is taken into custody under (a) or (b) of this
16 section, the department shall immediately, and in no event more than
17 12 hours later unless prevented by lack of communication facilities,
18 notify the parents or the person or persons having custody of the
19 child. If the department determines that continued custody is neces-
20 sary to protect the child, the department shall notify the court of
21 the emergency custody by filing, within 24 hours after custody was
22 assumed, [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-
23 tion alleging that the child is a child in need of aid. If the de-
24 partment releases the child within 24 hours after taking the child
25 into custody and does not file a child in need of aid petition the
26 department shall, within 24 hours after releasing the child, file with
27 the court a report explaining why the child was taken into custody.

28 * Sec. 10. AS 47.17.020(a) is amended to read:

29 (a) The following persons who, in the performance of their

1 occupational [PROFESSIONAL] duties, have cause to believe that a child
2 has suffered harm as a result of child abuse or neglect shall immedi-
3 ately report the harm to the nearest office of the department:

4 (1) practitioners of the healing arts;

5 (2) school teachers and school administrative staff members
6 of public and private schools;

7 (3) social workers;

8 (4) peace officers, and officers of the Department of
9 Corrections;

10 (5) administrative officers of institutions;

11 (6) child [LICENSED DAY] care providers [AND PAID STAFF];

12 (7) paid employees of domestic violence and sexual assault
13 programs, and crisis intervention and prevention programs as defined
14 in AS 18.66.900 [LICENSED FOSTER CARE PROVIDERS].

15 * Sec. 11. AS 47.17.020(b) is amended to read:

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

22 * Sec. 12. AS 47.17.020 is amended by adding a new subsection to read:

23 (d) This section does not require a religious healing practi-
24 tioner to report as neglect of a child the failure to provide medical
25 attention to the child if the child is provided treatment solely by
26 spiritual means through prayer in accordance with the tenets and
27 practices of a recognized church or religious denomination by an
28 accredited practitioner of the church or denomination.

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

1 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person
2 who, in the course of processing or producing visual or printed
3 matter, either privately or commercially, has reason to believe that
4 the matter visually depicts a child engaged in conduct described in
5 AS 11.41.455(a) shall promptly report this to the nearest law enforce-
6 ment agency, and provide the law enforcement agency with all
7 information known about the nature and origin of the matter.

8 * Sec. 14. AS 47.17.064 is repealed and reenacted to read:

9 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. (a) The department or
10 a practitioner of the healing arts may, without the permission of the
11 parents, guardian, or custodian, take the following actions with
12 regard to a child believed to have suffered physical harm as a result
13 of child abuse or neglect:

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

16 (2) if medically indicated, have a radiological examination
17 of the child performed by a person who is licensed to administer a
18 radiological examination.

19 (b) The department or a practitioner of the healing arts shall
20 notify the parents, guardian, or custodian of a child as soon as
21 possible after taking action under (a) of this section with regard to
22 the child.

23 * Sec. 15. AS 47.17.068 is repealed and reenacted to read:

24 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who
25 knowingly fails or refuses to report as required under AS 47.17.020 or
26 47.17.023 is guilty of a class B misdemeanor.

27 * Sec. 16. AS 47.17 is amended by adding a new section to read:

28 Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) A court may enjoin
29 or limit a person from contact with a child if the attorney general

1 establishes by a preponderance of the evidence that the person

2 (1) has sexually abused a child;

3 (2) has physically abused a child; or

4 (3) has engaged in conduct that constitutes a clear and
5 present danger to the mental, emotional, or physical welfare of a
6 child.

7 (b) This section does not limit the authority of the attorney
8 general or the court to act to protect a child.

9 * Sec. 17. AS 47.17.070(6) is amended to read:

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

15 * Sec. 18. AS 47.17.070 is amended by adding new paragraphs to read:

16 (8) "child care provider" means an adult individual, or an
17 employee of an organization, who provides care and supervision to a
18 child for compensation;

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

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

29 * Sec. 19. AS 47.35.070 is amended to read:

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

6 * Sec. 20. AS 47.35.070 is amended by adding a new subsection to read:

7 (b) The department may by regulation devise a system of civil
8 enforcement. The system may employ civil penalties not to exceed \$200
9 for each day during which one or more violations of a licensing stat-
10 ute or licensing regulation occurs. The imposition of a civil penalty
11 does not prevent prosecution and sentence for a criminal offense.

12 * Sec. 21. Section 5 of this Act takes effect September 30, 1985.
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Original sponsor: Rules/Governor

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IN THE HOUSE

BY THE JUDICIARY COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 88 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the protection of children, family members, and dependent adults; and providing for an effective date."

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

* Section 1. AS 11.61.125(a) is amended to read:

(a) A person ~~commits~~ 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 2. 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. 3. 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 11.66.110 - 11.66.130, 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. 4. AS 12.45.045(a) is repealed and reenacted to read: *ADD SB243 TITLE Amendment*

Same as Bill Senate

(a) In prosecutions for the crimes 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, evidence of the complaining witness' previous sexual conduct may not be admitted nor reference made to it in the presence of the jury except as provided in this section. A defendant who seeks to admit the evidence for any purpose shall apply for an order of the court before the trial if the evidence is sought to be introduced at trial or before the preliminary hearing if the evidence is sought to be introduced at the preliminary hearing, unless the defendant demonstrates that the defendant, despite exercising due diligence, was unable to apply before the trial or preliminary hearing. After the application is made, the court shall conduct a hearing in camera to determine the admissibility of the evidence. If the court finds that evidence offered by the defendant regarding the sexual conduct of the complaining witness is relevant, and that the probative value of the evidence offered is not outweighed by the probability that its admission will create undue prejudice, confusion of the issues, or unwarranted invasion of the privacy of the complaining witness, the court shall issue a written order stating what evidence may be introduced and the nature of the questions that may be permitted. The defendant may then offer evidence under the order of the court.

* Sec. 5. AS 25.35.010(a) is repealed and reenacted to read:

NEW SECTION (SB74)

(a) A person who is subjected to domestic violence may petition a superior court for injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent.

1 The court may appoint a guardian ad litem or attorney to represent a
 2 minor who is subject to this chapter in the same manner as an attorney
 3 may be appointed under AS 25.24.310.

4 * Sec. 6. AS 25.35.060 is amended to read:

5 *New Section*
 6 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic vio-
 7 lence" means a crime under AS 11.41 when the victim is a spouse or a
 8 former spouse of the respondent; a parent, grandparent, child, or
 9 grandchild of the respondent; [,] a member of the social unit composed
 10 [COMPRISED] of those living together in the same dwelling as the
 11 respondent; [,] or a person who is not a spouse or former spouse of
 12 the respondent but who previously lived in a spousal relationship with
 13 the respondent.

14 * Sec. 7. AS 47.10.010(a) is amended to read:

15 (a) Proceedings relating to a minor under 18 years of age resid-
 16 ing or found in the state are governed by this chapter, except as
 17 otherwise provided in this chapter, when the court finds the minor

18 (1) to be a delinquent minor as a result of violating a
 19 criminal law of the state or of a municipality of the state; or

20 (2) to be a child in need of aid as a result of

21 (A) the child being habitually absent from home or
 22 refusing to accept available care, or having no parent, guardian,
 23 custodian or relative caring or willing to provide care, includ-
 24 ing physical abandonment by

25 (i) both parents,

26 (ii) the surviving parent, or

27 (iii) one parent if the other parent's rights and
 28 responsibilities have been terminated under AS 47.10.080 or
 29 voluntarily relinquished;

(B) the child being in need of medical treatment to

New House language

1 cure, alleviate, or prevent substantial physical harm, or in need
2 of treatment for mental harm as evidenced by failure to thrive,
3 severe anxiety, depression, withdrawal, or untoward aggressive
4 behavior or hostility toward others, and the child's parent,
5 guardian, or custodian has knowingly failed [PARENTS ARE UNWILL-
6 ING] to provide the [MEDICAL] treatment;

7
8 (C) the child having suffered substantial physical
9 harm or if there is an imminent and substantial risk that the
10 child will suffer such harm as a result of the actions done by or
11 conditions created by the child's parent, guardian or custodian
12 or the failure of the parent, guardian or custodian adequately to
13 supervise the child;

14 (D) the child having been, or being in imminent and
15 substantial danger of being, sexually abused either by the
16 child's parent, guardian or custodian, or as a result of con-
17 ditions created by the child's parent, guardian or custodian, or
18 by the failure of the parent, guardian or custodian adequately to
19 supervise the child;

20 (E) the child committing delinquent acts as a result
21 of pressure, guidance, or approval from the child's parents,
22 guardian or custodian;

23 (F) the child having suffered substantial physical
24 abuse or neglect as a result of conditions created by the child's
25 parent, guardian or custodian.

26 8. AS 47.10.142(a) is repealed and reenacted to read:

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

(1) the minor has been abandoned;

*HOUSE VERSUS
SUBSTANTIAL
SUMMARY*

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

(3) the minor has been subjected to child abuse or neglect by a person responsible for the minor's welfare, as "child abuse or neglect" is defined in AS 47.17.070(1), and the department determines that immediate removal from the minor's surroundings is necessary to protect the minor's life or that immediate medical attention is necessary; or

(4) the minor has been sexually abused under circumstances listed in AS 47.10.010(a)(2)(D). (Language missing)

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

(c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the parents or the person or persons having custody of the child. If the department determines that continued custody is necessary to protect the child, the department shall notify the court of the emergency custody by filing, within 24 hours after custody was assumed, [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a petition alleging that the child is a child in need of aid. If the department releases the child within 24 hours after taking the child into custody and does not file a child in need of aid petition the department shall, within 24 hours after releasing the child, file with the court a report explaining why the child was taken into custody.

* Sec. 10. AS 47.17.020(a) is amended to read:

(a) The following persons who, in the performance of their

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occupational [PROFESSIONAL] duties, have cause to believe that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department:

(1) practitioners of the healing arts;

(2) school teachers and school administrative staff members of public and private schools;

(3) social workers;

(4) peace officers, and officers of the Department of Corrections;

(5) administrative officers of institutions;

(6) child [LICENSED DAY] care providers [AND PAID STAFF];

(7) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.900 [LICENSED FOSTER CARE PROVIDERS].

* Sec. 11. AS 47.17.020(b) is amended to read:

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

* Sec. 12. AS 47.17.020 is amended by adding a new subsection to read:

(d) This section does not require a religious healing practitioner to report as neglect of a child the failure to provide medical attention to the child if the child is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination.

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

~~Substantively~~ Similar

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Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person who, in the course of processing or producing visual or printed matter, either privately or commercially, has reason to believe that the matter visually depicts a child engaged in conduct described in AS 11.41.455(a) shall promptly report this to the nearest law enforcement agency,

AND PROVIDE THE LAW ENFORCEMENT AGENCY WITH ALL INFORMATION KNOWN ABOUT THE NATURE AND CIRCUMSTANCES OF THE VIOLATION.

* Sec. 14. AS 47.17.064 is repealed and reenacted to read:

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

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

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

(b) The department or a practitioner of the healing arts shall notify the parents, guardian, or custodian of a child as soon as possible after taking action under (a) of this section with regard to the child. *HOUSE ADDITION*

* Sec. 15. AS 47.17.068 is repealed and reenacted to read:

Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who knowingly fails or refuses to report as required under AS 47.17.020 or 47.17.023 is guilty of a class B misdemeanor.

* Sec. 16. AS 47.17 is amended by adding a new section to read:

Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) A court may enjoin or limit a person from contact with a child if the attorney general establishes by a preponderance of the evidence that the person

~~Substantively~~ Similar -7-

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*DROPPED HUMAN SERVICES DIVISION RESPONSIBLE FOR THE CHILD'S WELFARE **

(1) has sexually abused a child;

(2) has physically abused a child; or

(3) has engaged in conduct that constitutes a clear and present danger to the mental, emotional, or physical welfare of a child.

(b) This section does not limit the authority of the attorney general or the court to act to protect a child.

Sec. 17. AS 47.17.070(6) is amended to read:

(6) "practitioner of the healing arts" includes chiropractors, dental hygienists, dentists, health aides, nurses, nurse practitioners, optometrists, osteopaths, physical therapists, physicians, physician's assistants, psychiatrists, psychologists, psychological associates, religious healing practitioners, and surgeons;

Sec. 18. AS 47.17.070 is amended by adding new paragraphs to read:

(8) "child care provider" means an adult individual, or an employee of an organization, who provides care and supervision to a child for compensation; *from language*

(9) "organization" means a group or entity that provides care and supervision for compensation 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;

(10) "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 child abuse or neglect, or a person responsible for the child's welfare in a public or private residential agency or institution.

* Sec. 19. AS 47.35.070 is amended to read:

Sec. 47.35.070. VIOLATIONS. A person who violates a provision

1 of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted
 2 under this chapter [AS 47.35.010 - 47.35.100] is guilty of a class B
 3 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE
 4 THAN \$200].

5 * Sec. 20. AS 47.35.070 is amended by adding a new subsection to read:

6 (b) The department may by regulation devise a system of civil
 7 enforcement. The system may employ civil penalties not to exceed \$200
 8 for each day during which one or more violations of a licensing stat-
 9 ute or licensing regulation occurs. The imposition of a civil penalty
 10 does not prevent prosecution and sentence for a criminal offense.

11 * Sec. 21. Section 5 of this Act takes effect September 30, 1985.

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 13 *1/20/85*

14 *MARITIME LAKE* ~~AMENDMENT~~
AMENDMENT *FRANKS*

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030
DOCUMENT #85-138

April 24, 1985

The Honorable Patrick M. Rodey
Chairman, Senate Judiciary Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Rodey:

Based on the testimony that was presented to the Judiciary Committee on Tuesday, April 16, 1985 and based on the Governor's Child Protection bill, originally HB 88, the department would support a change in Section 10 (AS 47.10.290) of the Committee Substitute for Senate Bill 243. The department supports adding the following language, which was originally in the Governor's bill:

(8) "sexual abuse" means

(B) the perpetrator's knowingly touching, directly or through clothing, the genital area, groin, inner thighs, or buttocks of a child, or causing a child to touch, directly or through clothing, the genital area, groin, inner thighs, or buttocks of the perpetrator or another; sexual abuse does not include reasonable touching in the exercise of normal caretaker responsibilities for a child or normal caretaker interactions with a child or touching performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the child; reasonable perceptions of the child that the touching is sexual in nature are relevant to the determination of whether the touching is sexual abuse;

(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; reasonable perceptions of the child that the touching is sexual in nature are relevant to the determination of whether the touching is sexual abuse; or

In the majority of sexual abuse cases the abuser will claim the touching was not sexual in nature. Abusers share four behavior characteristics, they rationalize, justify, deny or minimize their sexual abusive acts. The above additional language would be helpful to children in cases of sexual abuse where the abuser claims the touching was appropriate and

April 24, 1985

not sexual in nature. The child's perception of the touching, although not a sole determinant of the case, would be admissible as evidence in a civil children's proceeding.

The department also supports the removal of section 17 (AS 47.17.060 EVIDENCE NOT PRIVILEGED) of CS SB 21. Initially the department supported this section so that it was clear to all persons involved in children's proceedings that the psychotherapist-client privilege was one of the privilege rules whereby what a client told his psychotherapist for diagnostic purposes regarding his emotional or mental condition was confidential and could not be disclosed without the client's permission. The department felt then, as it does now, that the inclusion of evidence from therapist-client relationships for use in civil or criminal proceedings would discourage persons from seeking or participating in treatment which may be essential to the goal of protecting children from continuing harm. Because the psychotherapist-patient privilege already exists under Alaska Rules of Evidence, Rule 504, and because this bill section has caused some confusion as to whether the "privileged" groups must make reports of harm, the department suggests that AS 47.17.060 remain as it is presently stated in Title 47 of the Alaska Statutes.

If the department can be of any further assistance to the Judiciary Committee, please contact me.

Sincerely,



Connie J. Sipe
Deputy Commissioner

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

April 25, 1985

SUBJECT: Title change to CSSB 243 (Judiciary)
TO: Senator Pat Rodey
Chairman, Senate Judiciary Committee
FROM: Edward H. Hein *EHA*
Legislative Counsel

The inclusion of sections 25 and 26 in CSSB 243 (Judiciary) necessitate a change in the title of the bill. The current title is "An Act relating to the protection of children." Because these two bill sections provide new criminal and civil penalties for licensing violations by operators of institutions for the care of dependent adults, as well as foster homes and other institutions relating to children, the bill title does not comply with the expression requirement of Article II, section 13 of the Alaska Constitution.

I recommend that the phrase "and dependent adults" be added to the end of the current bill title.

If you have any questions or comments, feel free to contact me at your convenience.

EHH:ojb
J14/042

DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER -CSSB 3(Hess)

SUPPORT

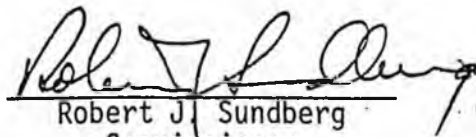
April 17, 1985

CSSB 3(Hess) - "An Act 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."

This Bill will allow the use of hearsay evidence from sexually abused children in grand jury proceedings. It is an attempt to shield victims from additional emotional trauma.

Senate Bill 3 will allow an individual trained in child abuse cases who has interviewed the victim to testify in his or her place or it will allow the submission of a video tape of the interview. Courtroom atmosphere often inhibits and intimidates the young victims - particularly one who may be discussing a sexual encounter with a parent or relative.

This legislation will not result in abuse of the grand jury system and only addresses cases of sexual abuse of minors. Although the admittance of hearsay evidence is not traditional in grand jury proceedings in Alaska cases of this type warrant an exception to protect the victims.


Robert J. Sundberg
Commissioner

DRAFT 4-25-85

1 IN THE SENATE

IN THE JUDICIARY COMMITTEE

2 PROPOSED CS FOR SENATE BILL NO. 3

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 13
15 may be admitted into evidence before the grand jury if the
16 circumstances of the statement indicate its reliability and additional
17 evidence is introduced to corroborate the statement.

18 (b) In this section "statement" means an oral or written
19 assertion or nonverbal conduct if the nonverbal conduct is intended as
20 an assertion.

21 * Sec. 2. AS 12.40.110, added by sec. 1 of this Act, has the effect of
22 amending Rule 6(r), Alaska Rules of Criminal Procedure, by changing the
23 circumstances under which hearsay evidence may be introduced at grand jury
24 proceedings for certain sexual offenses.

Offered: 4/23/85
Referred: Finance

Original sponsor: Phillips

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 67 (Judiciary)
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 admissibility of hearsay
7 evidence of certain statements by children before
8 grand juries; and amending Rule 6(r), Alaska Rules of
9 Criminal Procedure."

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

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

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

18 (1) the circumstances of the statement indicate its relia-
19 bility;

20 (2) additional evidence is introduced to corroborate the
21 statement; and

22 (3) the child testifies at the grand jury proceeding or the
23 child ^{is} ~~will~~ be available to testify at trial.

24 (b) In this section "statement" means an oral or written asser-
25 tion or nonverbal conduct if the nonverbal conduct is intended as an
26 assertion.

27 * Sec. 2. AS 12.40.110, added by sec. 1 of this Act, has the effect of
28 amending Rule 6(r), Alaska Rules of Criminal Procedure, by changing the
29 circumst: under which hearsay evidence may be introduced in grand jury

*if evidence admitted under
1) hearsay
2) evidence relevant to case or
3) absent from jurisdiction*

*Committee
considered*

*(-) if unavailability - 1-
Correct determination - hearsay evidence
Automatic dismissal of indictment w/out prejudice*

CSHB 67(Jud)

1 proceedings for certain sexual offenses.

DRAFT

1 IN THE SENATE

IN THE JUDICIARY COMMITTEE

2 PROPOSED CS FOR SENATE BILL NO. 3

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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13 11.41.440 or 11.41.455, hearsay evidence of a statement related to the
14 offense, not otherwise admissible, made by a ^{VICTIM} child under the age of 12
15 may be admitted into evidence before the grand jury if

16 (1) the circumstances of the statement indicate its relia-
17 bility;

18 (2) additional evidence is introduced to corroborate the
19 statement; and

20 (3) the child ^{TESTIFIES AT THE GRAND JURY PROCEEDINGS OF THE} will be available to testify at trial. ^{CHARGE}

21 * Sec. 2. AS 12.40.110, added by sec. 1 of this Act, has the effect of
22 amending Rule 6(r), Alaska Rules of Criminal Procedure, by changing the
23 circumstances under which hearsay evidence may be introduced in grand jury
24 proceedings for certain sexual offenses.

DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER -CSSB 3(Hess)

SUPPORT

April 17, 1985

CSSB 3(Hess) - "An Act 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."

This Bill will allow the use of hearsay evidence from sexually abused children in grand jury proceedings. It is an attempt to shield victims from additional emotional trauma.

Senate Bill 3 will allow an individual trained in child abuse cases who has interviewed the victim to testify in his or her place or it will allow the submission of a video tape of the interview. Courtroom atmosphere often inhibits and intimidates the young victims - particularly one who may be discussing a sexual encounter with a parent or relative.

This legislation will not result in abuse of the grand jury system and only addresses cases of sexual abuse of minors. Although the admittance of hearsay evidence is not traditional in grand jury proceedings in Alaska cases of this type warrant an exception to protect the victims.


Robert J. Sundberg
Commissioner

Cramer
4/23/85 ✓

Original sponsors: Josephson, V.Fischer,
Kelly and Sturgulewski

1
2 IN THE SENATE

BY THE JUDICIARY COMMITTEE

3 CS FOR SENATE BILL NO. 161 (Judiciary)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to compensation of elected offi-
8 cials; and providing for an effective date."

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

10 * Section 1. AS 24.15.020 is repealed and reenacted to read:

11 Sec. 24.15.020. COMPENSATION OF LEGISLATORS. The Commission on
12 Compensation of Elected Officials shall set the compensation of legis-
13 lators.

14 * Sec. 2. AS 39.20.010 is repealed and reenacted to read:

15 Sec. 39.20.010. COMPENSATION OF THE GOVERNOR. The Commission on
16 Compensation of Elected Officials shall set the compensation of the
17 governor.

18 * Sec. 3. AS 39.20.030 is repealed and reenacted to read:

19 Sec. 39.20.030. COMPENSATION OF LIEUTENANT GOVERNOR. The Com-
20 mission on Compensation of Elected Officials shall set the compensa-
21 tion of the lieutenant governor.

22 * Sec. 4. AS 39.20.050 is amended to read:

23 Sec. 39.20.050. EXCLUSIVE COMPENSATION. Retirement benefits
24 established by law and the [THE] compensation fixed by the Commission
25 on Compensation of Elected Officials [LAW] for the governor and
26 lieutenant governor are full compensation [IS IN FULL] for all servi-
27 ces rendered by each of them in any official capacity or employment
28 whatsoever during their respective terms of office, and shall be paid
29 throughout their respective terms of office unless the office becomes
vacant.

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* Sec. 5. In making initial appointments to the Commission on Compensation of Elected Officials, the governor shall appoint one member to a term of two years, one member to a term of three years, one member to a term of four years, one member to a term of five years, and one member to a term of six years.

* Sec. 6. The compensation of the governor, lieutenant governor, and legislators established by law on the day before the effective date of this Act shall remain in effect until the Commission on Compensation of Elected Officials has issued an order setting the compensation.

* Sec. 7. This Act takes effect on the effective date of an amendment to the Constitution of the State of Alaska creating a commission on compensation of elected officials.

Original sponsors: Josephson, V.Fischer,
Kelly and Sturgulewski

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IN THE SENATE

BY THE JUDICIARY COMMITTEE

CS FOR SENATE JOINT RESOLUTION NO. 15 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

Proposing an amendment to the Constitu-
tion of the State of Alaska creating a
commission on compensation of elected
officials.

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

* Section 1. Article II, sec. 7, Constitution of the State of Alaska is
amended to read:

SECTION 7. SALARY AND EXPENSES. Legislators shall receive
annual salaries. They may receive a per diem allowance for expenses
while in session and are entitled to travel expenses going to and from
sessions. Presiding officers may receive additional compensation.
Compensation of legislators shall be set by the Commission on Compen-
sation of Elected Officials.

* Sec. 2. Article III, sec. 15, Constitution of the State of Alaska is
amended to read:

SECTION 15. COMPENSATION. The compensation of the governor and
the lieutenant governor shall be prescribed by the Commission on
Compensation of Elected Officials [LAW] and shall not be diminished
during their term of office, unless by order of the commission consis-
tent with a general law applying to all salaried officers of the
State.

* Sec. 3. Article XII, Constitution of the State of Alaska is amended
by adding new sections to read:

SECTION 14. COMPENSATION COMMISSION. There is established a
Commission on Compensation of Elected Officials. The commission is

1 composed of five members appointed by the governor, subject to confir-
2 mation by a majority of the members of the legislature in joint ses-
3 sion. Members serve for staggered terms of six years. The governor
4 shall appoint members without regard to political affiliation. A
5 member of the commission may not be employed by the state during the
6 member's term and may not hold an elective state office during the
7 term or within one year thereafter.

8 SECTION 15. POWERS AND DUTIES OF THE COMMISSION. Except for
9 retirement benefits, which shall be established by general law appli-
10 cable to all officers of the state, the commission shall establish the
11 compensation of the governor, lieutenant governor, and members of the
12 legislature, including their salaries, benefits, per diem, and allow-
13 ances, if any. An order of the commission takes effect at the begin-
14 ning of the next fiscal year of the state. The commission shall hold
15 a public hearing in each judicial district before issuing an order
16 that changes the compensation of an elected official. At least every
17 two years, but not more frequently than every year, the commission
18 shall review the compensation of elected officials. The commission
19 shall issue an order with respect to salaries not later than thirty
20 days before the end of the fiscal year.

21 SECTION 16. FINALITY OF ORDER. An order setting the compensa-
22 tion of an elected official is not subject to veto by the governor.
23 An order of the commission is subject to initiative and referendum in
24 the same manner as an act of the legislature. The legislature shall
25 appropriate money to fund the orders of the commission.

26 * Sec. 4. The amendments proposed by this resolution shall be placed
27 before the voters of the state at the next general election in conformity
28 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
29 tion laws of the state.
#

CALL FOR HEARING RE SEC. 20

Offered: 4/3/85
Referred: Judiciary

Original sponsor: Health, Education and
Social Services Committee

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 243 (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 the protection of children; and
amending Rules 504 and 505, Alaska Rules of Evi-
dence."

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

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* Section 1. AS 11.51.100 is amended to read:

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Sec. 11.51.100. ENDANGERING THE WELFARE OF A MINOR IN THE FIRST

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DEGREE. (a) A person commits the crime of endangering the welfare of

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a minor in the first degree if, being a parent, guardian, or other

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person legally charged with the care of a child under 13 [10] years of

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age, the person intentionally deserts the child in any place under

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circumstances creating a substantial risk of physical injury to the

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child.

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(b) Endangering the welfare of a minor in the first degree is a

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class C felony.

20

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

21

Sec. 11.51.110. ENDANGERING THE WELFARE OF A MINOR IN THE SECOND

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DEGREE. (a) A person commits the crime of endangering the welfare of

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a minor in the second degree if, being entrusted with the care of a

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child under 13 years of age, the person with criminal negligence

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(1) exposes the child to circumstances creating a substan-

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tial risk of physical injury or sexual abuse; or

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(2) exposes the child to physical injury by failing to

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provide the child with necessary food, care, clothing, shelter, or

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medical attention.

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

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

4 (a) A person commits the crime of distribution of child pornog-
5 raphy if the person brings or causes to be brought into the state for
6 [SALE OR] distribution, or in the state distributes, or in the state
7 possesses, prepares, publishes, or prints with intent to distribute,
8 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-
9 ial that visually depicts conduct described in [UNDER] AS 11.41.-
10 455(a), knowing that the production of the material involved the use
11 of a child under 18 years of age who engaged in the conduct.

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

13 (d) In this section, "distribution" includes delivering, sell-
14 ing, renting, leasing, lending, giving, circulating, exhibiting,
15 presenting, providing, and exchanging, whether or not for monetary or
16 other consideration.

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

18 (c) Even if the general time limitation has expired, a prose-
19 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,
20 former AS 11.41.430, or former AS 11.51.130(a)(4), for an offense
21 committed against a person under the age of 16 may be commenced within
22 one year after the crime is reported to a peace officer or the person
23 reaches the age of 16, whichever occurs first. This subsection does
24 not extend the period of limitation by more than five years.

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

26 Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR
27 SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a)
28 In prosecutions for the crimes [CRIME] of sexual assault in any de-
29 gree, sexual abuse of a minor in any degree, or unlawful exploitation

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

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

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

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

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

27 (1) the minor has been abandoned;

28 (2) the minor has been grossly neglected by the minor's
29 parents or guardian as "neglect" is defined in AS 47.17.070(5), and

1 the department determines that immediate removal from the minor's
2 surroundings is necessary to protect the minor's life or that immedi-
3 ate medical attention is necessary;

4 (3) the minor has been abused by a person responsible for
5 the minor's welfare, as "abuse" is defined in AS 47.17.070(1), and the
6 department determines that immediate removal from the minor's
7 surroundings is necessary to protect the minor's life or that immedi-
8 ate medical attention is necessary;

9 (4) the minor has been sexually abused under circumstances
10 listed in AS 47.10.010(a)(2)(D). *AND THE DEPARTMENT DETERMINES THAT IMMEDIATE REMOVAL FROM THE MINOR'S SURROUNDINGS IS NECESSARY TO PROTECT THE MINOR FROM FURTHER ABUSE*
11 * Sec. 9. AS 47.10.142(c) is amended to read: *FROM FURTHER ABUSE*

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

20 tion alleging that the child is a child in need of aid. *IF THE DEPARTMENT*
21 * Sec. 10. AS 47.10.290 is amended by adding a new paragraph to read:
DOES FILE A PETITION THE DEPARTMENT SHALL SUBMIT

22 (8) "sexual abuse" means

23 (A) conduct against a child that would constitute a
24 sexual offense under AS 11;

25 (B) the perpetrator's knowingly touching, directly or
26 through clothing, the genital area, groin, inner thighs, or
27 buttocks of a child, or causing a child to touch, directly or
28 through clothing, the genital area, groin, inner thighs, or
29 buttocks of the perpetrator or another; sexual abuse does not

Ken A - Proposals of Child

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include reasonable touching in the exercise of normal caretaker responsibilities for a child or normal caretaker interactions with a child or touching performed for the purpose of administering a recognized and lawful form of treatment that is 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].

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

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

- 5 (1) practitioners of the healing arts;
- 6 (2) employees and volunteers of private and public schools;
- 7 (3) human services providers;
- 8 (4) peace officers, and officers of the Department of
9 Corrections;
- 10 (5) administrative officers of institutions;
- 11 (6) child care providers;
- 12 (7) counselors;
- 13 (8) ~~court~~ investigators; (KIMM)
- 14 (9) employees and volunteers of domestic violence programs,
15 sexual assault programs, or crisis shelters;
- 16 (10) guardians and conservators.

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

28 (c) A person listed in (a) of this section, who in the perfor-
29 mance of the person's occupational duties has cause to believe that a

DATE - 3/24/72
HARRISON

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

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

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

22 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person
23 who, in the course of processing or producing visual or printed mat-
24 ter, either privately or commercially, has reason to believe that the
25 matter visually depicts a minor engaged in conduct described in
26 AS 11.41.455(a) shall promptly report this to the nearest law enforce-
27 ment agency. The person shall allow law enforcement agents access to
28 the material and provide the law enforcement agency with all
29 information known about the origin of the matter.

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

2 Sec. 47.17.025. DUTIES OF PUBLIC AUTHORITIES. (a) After re-
3 ceiving a report of harm to a child resulting from abuse or neglect by
4 a person responsible for the child's welfare, a law enforcement agency
5 shall immediately notify the Department of Health and Social Services
6 and the Department of Law. The Department of Health and Social Ser-
7 vices shall investigate the report and, within 72 hours after receiv-
8 ing the report, shall provide a written report of its investigation to
9 the Department of Law for review. If after a preliminary investiga-
10 tion the Department of Health and Social Services determines that the
11 harm was not caused by a member of the child's family, the department
12 shall so notify the Department of Law.

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

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

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

25 (b) Investigation reports and reports of harm filed under this
26 chapter are considered confidential and are not subject to public
27 inspection and copying under AS 09.25.110 and 09.25.120. However, in
28 accordance with department regulations, investigation reports may be
29 used by appropriate governmental agencies with child-protection

1 functions, inside and outside the state [ALASKA], in connection with
2 investigations or civil or criminal [JUDICIAL] proceedings involving
3 [CHILD] abuse, neglect, or child custody. A person, not acting in
4 accordance with department regulations, who makes public information
5 contained in confidential reports is guilty of a misdemeanor.

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

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

12 * Sec. 17. AS 47.17.060 is repealed and reenacted to read:

13 Sec. 47.17.060. EVIDENCE NOT PRIVILEGED. In a civil or criminal
14 proceeding related to a report under this chapter, no privilege is a
15 ground for excluding evidence regarding a child's harm, or its cause,
16 except

- 17 (1) the attorney-client privilege;
18 (2) the psychotherapist-patient privilege; and
19 (3) the clergyman privilege.

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

21 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. The department or a
22 practitioner of the healing arts may, without the permission of the
23 parents, guardian, or custodian, take the following actions with
24 regard to a child believed to have suffered physical harm as a result
25 of abuse or neglect:

- 26 (1) take or have taken photographs of the areas of trauma
27 visible on the child; and
28 (2) if medically indicated, have a radiological examination
29 of the child performed by a person who is licensed to administer a

1 radiological examination.

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

3 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person
4 who knowingly fails or refuses to report as required under AS 47.17.-
5 020 or 47.17.023 is guilty of a class B misdemeanor.

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

7 Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) The attorney
8 general may bring an action to enjoin or limit a person from contact
9 with a child not related to the person if the person

10 (1) has sexually abused a child;

11 (2) has physically abused a child;

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

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

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

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

22 (1) "[CHILD] abuse [OR NEGLECT]" means [THE] physical
23 injury [OR NEGLECT], sexual abuse, sexual exploitation, or maltreat-
24 ment of a child [UNDER THE AGE OF 18 BY A PERSON WHO IS RESPONSIBLE
25 FOR THE CHILD'S WELFARE] under circumstances that [WHICH] indicate
26 that the child's health or welfare is harmed or threatened thereby;

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

28 (6) "practitioner of the healing arts" includes chiroprac-
29 tors, dental hygienists, dentists, health aides, nurses, nurse

1 practitioners, optometrists, osteopaths, physical therapists, physi-
2 cians, physician's assistants, psychiatrists, psychologists, psycho-
3 logical associates, religious healing practitioners, and surgeons;

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

5 (7) "sexual exploitation" means

6 (A) permitting, encouraging, inducing, or employing a
7 child to engage in prostitution or in the promotion of prosti-
8 tution as set out in AS 11.66.100 - 11.66.150; or

9 (B) engaging in conduct described in AS 11.41.455;

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

11 (8) "child care provider" means an adult individual, or an
12 employee or volunteer of an organization, who provides care and super-
13 vision to a child;

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

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

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

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

29 Sec. 47.35.070. VIOLATIONS. A person who violates a provision

1 of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted
2 under this chapter [AS 47.35.010 - 47.35.100] is guilty of a class B
3 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE
4 THAN \$200].

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

6 (b) The department may by regulation devise a system of civil
7 enforcement. The system may employ civil penalties not to exceed \$200
8 for each day during which one or more violations of a licensing stat-
9 ute or licensing regulation occurs. The imposition of a civil penalty
10 does not prevent prosecution and sentence for a criminal offense.

11 * Sec. 27. AS 47.17.060, as repealed and reenacted in sec. 17 of this
12 Act, has the effect of changing Rules 504 and 505, Alaska Rules of Evi-
13 dence, by preventing the application in civil or criminal cases of certain
14 privileges specified in those rules to evidence obtained through reports
15 made under AS 47.17.

NOTIFICATION CHECKLIST

Yes	No	N/A	
_____	_____	_____	Police
_____	_____	_____	Rape Crisis Center
_____	_____	_____	Division of Family and Youth Services
_____	_____	_____	Parent or Responsible Adult

MEDICAL PERSONNEL AND CHAIN OF CUSTODY

Date of Examination _____

Time from _____ to _____

Institution _____

MEDICAL PERSONNEL

Physician(s)

Phone

(print)

(print)

Nurse(s)

(print)

(print)

(print)

Other Medical

(print)

(print)

LAB (examiner of motile sperm slide)

(print)

CHAIN OF CUSTODY

(Give All Evidence To Police Officer)

Person who gave evidence to police officer:

(print)

Police officer receiving evidence:

(print)

SEXUAL ASSAULT EXAMINATION

Victim
Use the Sexual Assault Evidence Kit
Initial Each Step Upon Completion

Victim _____

Suspect _____

Police # _____

STEP 1: PHOTOGRAPHS

Should Be Taken By Police Officer

- _____ 1. Photograph patient clothed from all angles.
- _____ 2. Photograph injuries visible before clothes removed.

STEP 2: CLOTHING

If patient was not wearing these clothes at time of assault, notify police to get the other clothes.

If patient was wearing these clothes at time of assault, follow this procedure:

- _____ 1. Patient undress over white paper in envelope labelled "Paper Sheet" (in kit).
- _____ 2. Remove each item of clothing and place each item in separate paper bags (in kit).
- _____ 3. Check items which have possible blood stains.

- | | |
|-----------------------|--------------------------|
| _____ outer jacket | _____ underwear |
| _____ sweater or vest | _____ bra |
| _____ blouse or shirt | _____ other underclothes |
| _____ pants | _____ socks or hose |
| _____ skirt or dress | _____ other _____ |
| | (specify) |

- _____ 4. Check items which have possible seminal stains.

- | | |
|-----------------------|--------------------------|
| _____ outer jacket | _____ underwear |
| _____ sweater or vest | _____ bra |
| _____ blouse or shirt | _____ other underclothes |
| _____ pants | _____ socks or hose |
| _____ skirt or dress | _____ other _____ |
| | (specify) |

- _____ 5. Fold white paper and put in envelope labelled "Paper Sheet."

STEP 3: INJURIES AND SUBSTANCES (NOT GENITALS)

Injuries

- _____ 1. Photograph all injuries.
- _____ 2. Note location of injuries on body diagram in kit.

Semen

- _____ 3. Remove wet or dry seminal remains on skin with saline swab. Use separate swab for each stain.
- _____ 4. Air dry swab(s) and put in envelope labelled "Semen Swabs (Skin)" (not in kit). Note location on envelope. Use separate envelope for each swab.
- _____ 5. Note location of seminal remains on body diagram in kit.

Blood

- _____ 6. Wet or moist: Remove with cotton and place in envelope labelled "Blood Swabs" (not in kit). Note location on envelope. Use separate envelope for each area of body.
- _____ 7. Dry: Scrape with clean scalpel onto the paper in envelope labelled "Dried Blood" (not in kit). Note location on envelope. Put scalpel in same envelope.
- _____ 8. Note location of blood on body diagram in kit. Note on diagram if blood was wet, moist, or dry.

Bites

- _____ 9. Note location of bites on body diagram in kit.
- _____ 10. Swab each bite with separate saline swab. Put each swab in separate envelopes marked "Bite Swabs" (not in kit). Note location on envelope.
- _____ 11. Call police officer in to photograph bites.

Fingernails

- _____ 12. If victim consents, cut each fingernail of each hand separately. Put clippings in envelopes labelled "Fingernail Clippings" (in kit). Mark which hand on envelope.
- _____ 13. If victim does not consent to cutting, scrape debris under nails into the same envelopes.

STEP 4: PUBIC HAIR

- _____ 1. Trim any hair apparently matted with dry semen. Place in envelope labelled "Pubic Hair Semen" (in kit).
- _____ 2. With comb in kit, comb pubic hair over paper. Place comb and paper into envelope labelled "Pubic Combing" (in kit).
- _____ 3. Cut 20 pubic hairs. Place in envelope marked "Pubic Hair (standard)" (in kit).

STEP 5: GENITAL AND RECTAL EXAMINATION

General

- _____ 1. Place any tampon or sanitary napkin in jar (not in kit).
- Was tampon compressed? yes / no
This should be air dried first.
- _____ 2. Note on genital diagram in kit any injuries to thighs, genitals, buttocks.
- _____ 3. Collect any debris from genitals, thighs, buttocks, and place in envelope labelled "Genital/Buttock Debris" (in kit).
4. Use woods light to examine genitals.
- Is there fluorescence? yes / no
Note fluorescence areas on genital diagram in kit.

Vaginal

- _____ 5. Check vagina for secretions. Aspirate secretions (aspirator in kit) and place in test tube (not in kit) labelled "Vaginal Secretions."
- _____ 6. Use saline swab (in kit) and wipe posterior fornix of vagina.
- _____ 7. Smear two slides (in kit) with swab and fix slides. Replace slides in the plastic container labelled "Vaginal Smear on Slides (in kit)."
- _____ 8. Place swab in cardboard test tube (in kit) and mark "Vag."
- _____ 9. Irrigate vagina with saline. Aspirate and place fluid in tube (not in kit) labelled "Vaginal Wash."

Rectal

- _____ 10. Note any rectal injuries on genital diagram in kit.
- _____ 11. Swab off any lubricant. Place in test tube (not in kit) labelled "Rectal Lubricant."
- _____ 12. (If anal intercourse or ejaculation on buttocks) Swab rectal area (swab in kit). Smear two slides with swab and fix slides. Place slides in plastic container (in kit) labelled "Anal & Oral Smear on Slides."
- _____ 13. Place swab in cardboard tube (in kit) and mark "Anal."

STEP 6: EVIDENCE SAMPLES

- _____ 1. Cut 20 head hairs. Place in envelope (in kit) labelled "Head Hairs Standard."
- _____ 2. Take envelope from kit labelled "Saliva Specimen on Cloth." Place gauze pad (in envelope) in patient's mouth with forceps. Have patient saturate it with saliva. Using forceps, remove gauze from mouth. Air dry and place in envelope.
- _____ 3. Draw two tubes of at least 5 cc each (tubes not in kit). DO NOT FREEZE BLOOD.
- _____ 4. Take urine sample (in jar not in kit).

STEP 7: MEDICAL TESTS

- _____ 1. Venereal disease tests, including of mouth and rectum if indicated by assault.
- _____ 2. Pregnancy test if indicated.

If presenting problems is pregnancy, what is gestation in weeks? _____

STEP 8: SLIDE ANALYSIS

- _____ 1. Examine wet mount slide from vaginal examination
for motile sperm.

Sperm were / were not seen.

Sperm were /were not motile.

- _____ 2. Examine a slide from rectal examination for
motile sperm.

Sperm were / were not seen.

Sperm were / were not motile.

STEP 9: OBSERVATIONS OF PATIENT

Describe patient's general emotional state.

Describe patient's emotional reaction to pelvic examination.

State what parts of exam caused patient pain, if any.

AUTHORIZATION FOR COLLECTION OF
EVIDENCE AND RELEASE OF INFORMATION

Investigating Agency: _____ Case # _____
Officer's Name: _____ Date: _____
Hospital: _____ # _____ Time: _____

I authorize the above hospital to collect my clothes and blood, urine, tissue, hair and other specimens needed. I authorize the hospital to give what they have collected to the above law enforcement agency. I authorize the hospital to give all medical reports of this examination to the above law enforcement agency and to the district attorney. This permission includes photographs taken during the examination.

WITNESS:

PERSON
EXAMINED: _____

Signature

Signature

Address: _____

Print

PARENT OR
GUARDIAN: _____

Signature

Title

Address: _____

Patient Name _____

HISTORY

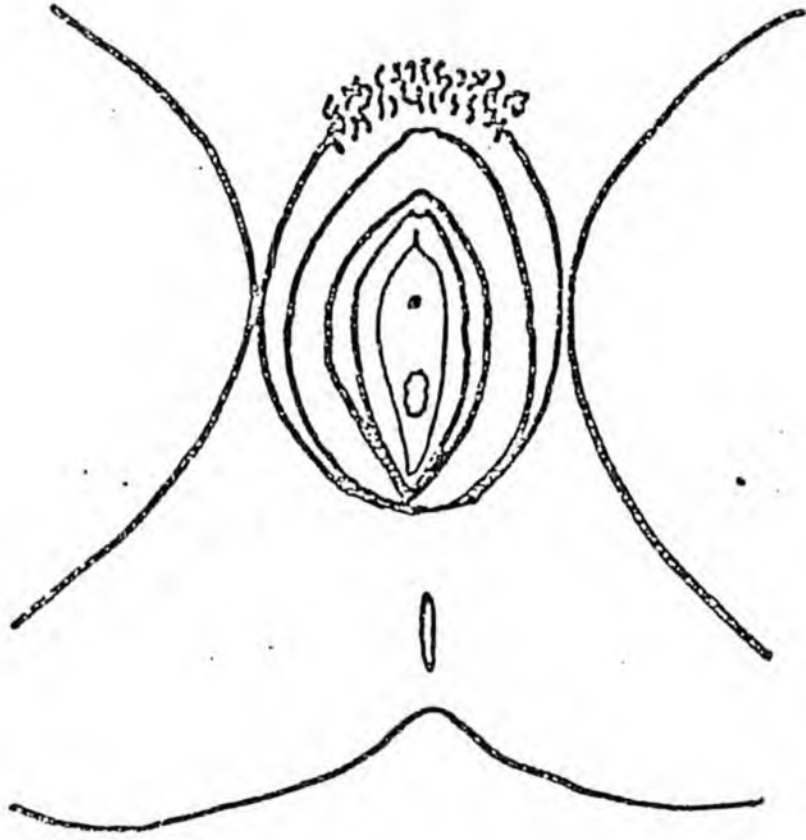
1. Age: _____ 2. Gravidity: _____ Parity: _____
3. Date of Termination of Last Pregnancy: _____
4. Age of Menarche: _____ 5. Date of Last Menses: _____
6. Last Menses Normal: Yes () No () If NO, Describe: _____
7. Patient known to be pregnant: Yes () No ()
8. Symptoms of pregnancy: Yes () No () If YES, Describe: _____
9. Most recent coitus prior to alleged assault:
Date _____ Time _____ Condom used? Yes () No ()
10. Current mode of contraception (prior to alleged assault): _____
11. Patient states she is (was) virgin prior to assault: Yes () No ()
12. Vaginal tampons used: Yes () No () Age Begun _____
13. Douching practiced: Yes () No () Most Recent _____
14. During alleged assault:
Did penis penetrate: _____ Did assailant have orgasm: _____
Vulva: Yes () No () ? () Vulva: Yes () No () ? ()
Mouth: Yes () No () ? () Mouth: Yes () No () ? ()
Anus: Yes () No () ? () Anus: Yes () No () ? ()
Did assailant wear condom? Yes () No () ? ()
15. Since alleged assault has patient:
Douched Yes () No ()
Bathed or showered Yes () No ()
Defecated Yes () No ()
Urinated Yes () No ()
16. Has Patient knowledge of:
Any present illness Yes () No ()
Any present medication Yes () No ()
Any drug allergy Yes () No ()
17. Has patient had a venereal disease (past or present):
Yes () No () Describe Therapy: _____

Date

Physician's Signature M.D.

Name _____ Autopsy No. _____

Age _____ Race _____ Sex _____ Date / /



PATIENT NAME _____

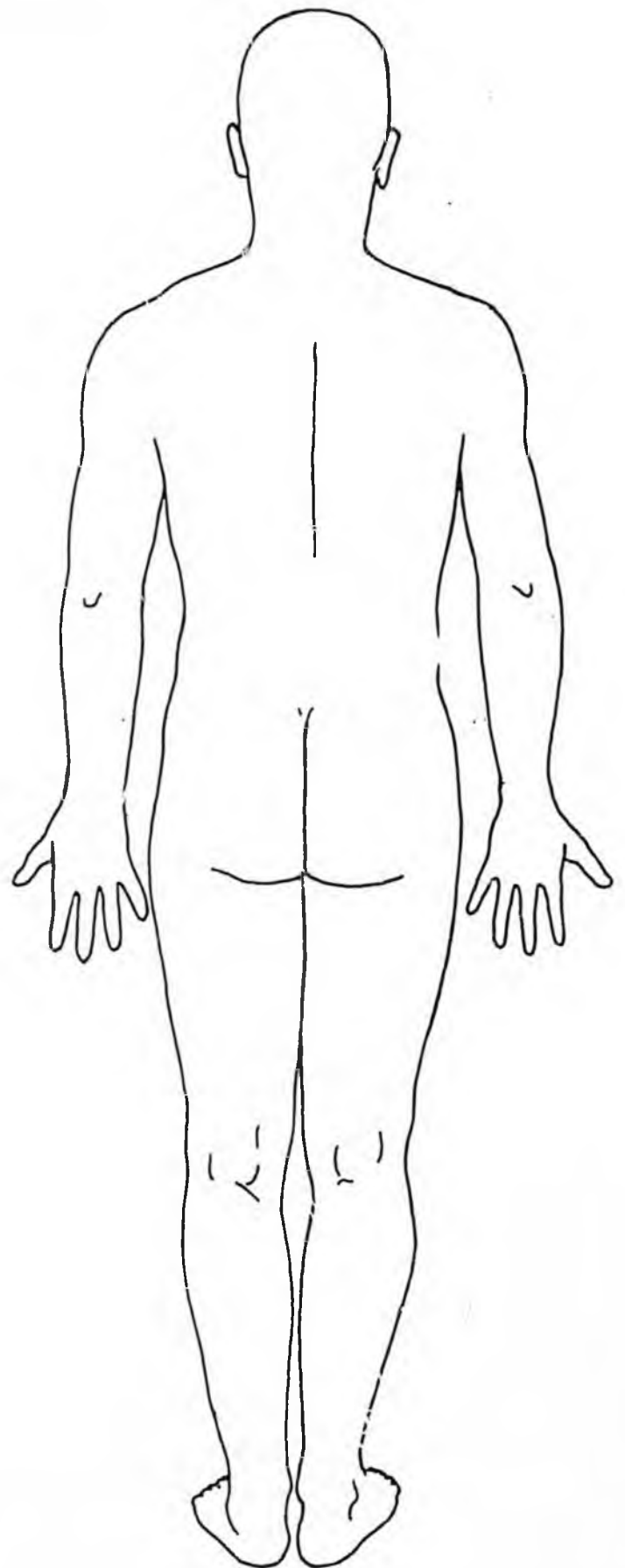
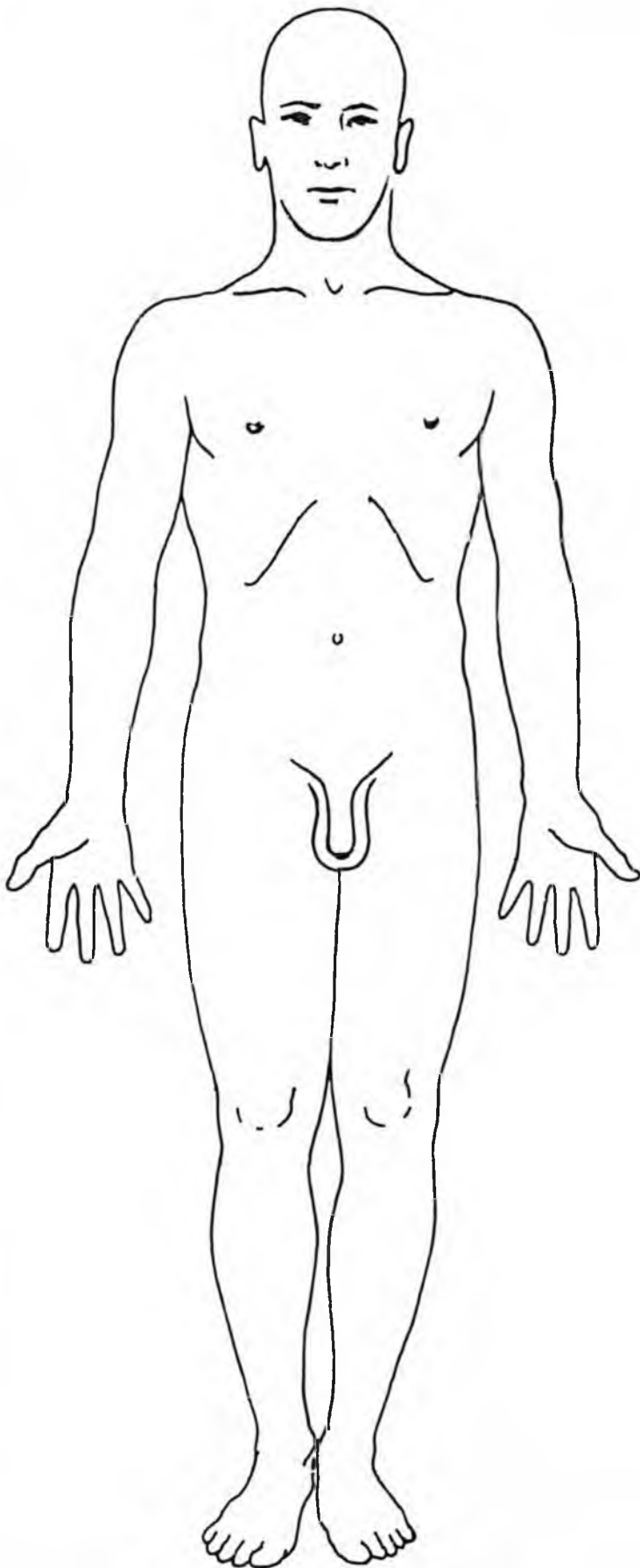
NOTES:

Full body, male, anterior and posterior views (ventral and dorsal).



Name _____ Autopsy No. _____

Age _____ Race _____ Sex _____ Date / /

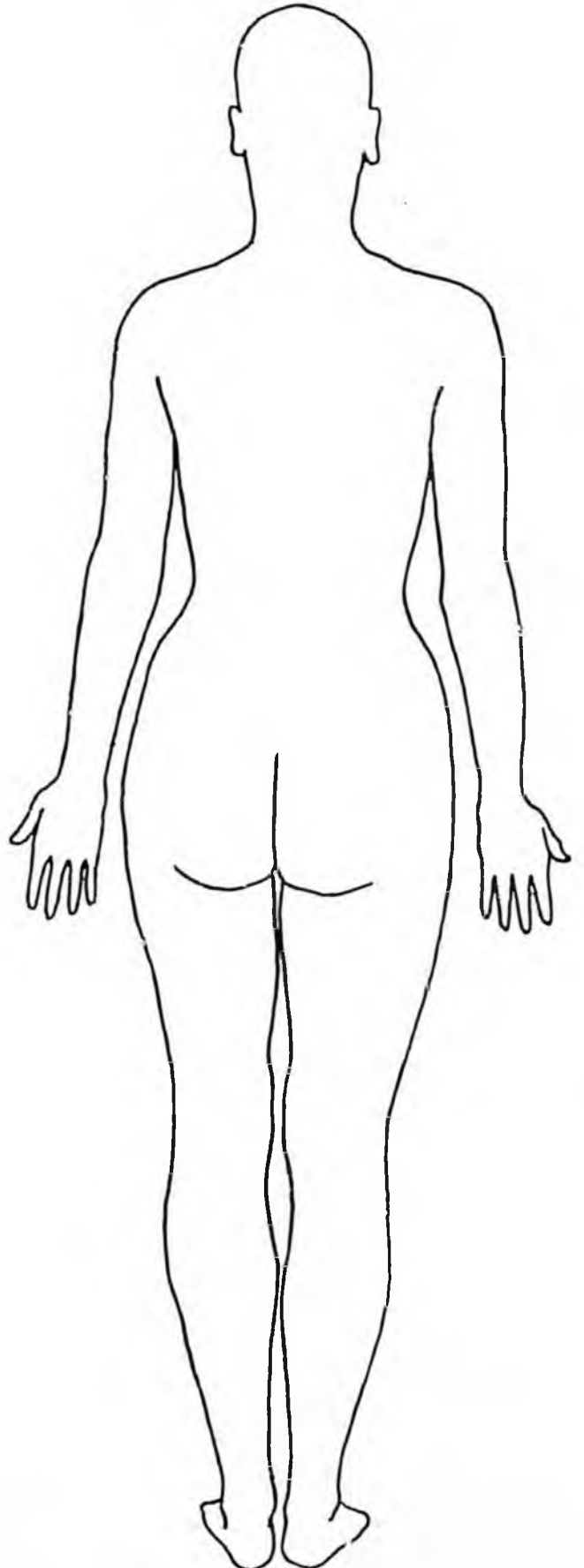
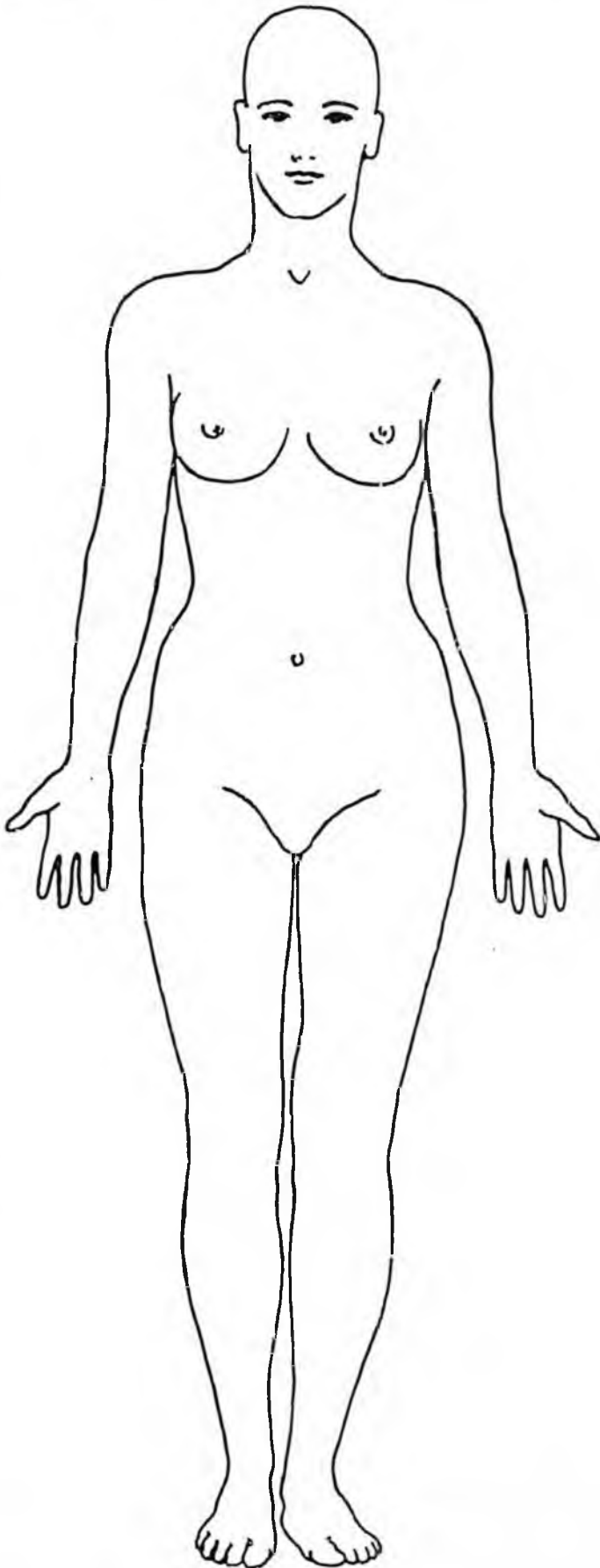




Full body, female, anterior and posterior views.

Name _____ Autopsy No. _____

Age _____ Race _____ Sex _____ Date / /



MEMORANDUM

TO: Senator Rodey

FROM: Kevin K. Bruce

DATE: March 11, 1985

RE: "An Act relating to criminal files of the
Department of Public Safety."

*O.K.
please draft*

The intent of this bill is to clarify the power of the Department of Public Safety in requiring standard forms and schedules of local law enforcement agencies reporting criminal activity. At the same time, the bill mandates that the department adopt regulations in this area, thereby allowing public input into the process.

The impetus for this legislation arose from the department's desire to establish an effective missing person's unit within the Division of State Troopers. Under current law, the department did not feel tht sufficient authority was given to compel local law enforcement to file missing persons reports in a uniform manner.

This legislation is designed to complement the child protection package that is currently being assembled.

DRAFT

18.65. Missing Persons Enforcement

(a) There is established in the Department of Public Safety, Division of State Troopers, a missing person's unit for the purpose of investigating the disappearance of individuals in the state.

Powers and Duties of Unit

(a) All peace officers in the state or any municipality or subdivision shall cooperate with the Department of Public Safety in creating and maintaining missing persons files. The Department may develop and require the use of standard forms for reporting missing persons.

Schedule of Reporting

(a) No later than 48 hours after receiving a written request to locate a person, a law enforcement agency shall notify the missing persons unit that an individual is missing. If the missing person is a minor, the Department shall file a report with NCIC. Upon receipt of a missing person report, the Department shall issue a statewide bulletin to all law enforcement agencies.

(b) If a person reported missing has not been located 25 days after a missing person report has been filed on that person the investigating agency shall prepare an information packet for Department files. The packet shall contain:

- 1) medical records;
- 2) dental records;
- 3) fingerprints;
- 4) photograph;
- 5) physical description;

of the missing person if available.

(c) No later than 24 hours after receiving notification that a person reported as missing under this section has been located, the Department shall notify all law enforcement agencies that the person has been located.

~~RECORDS~~ CONFIDENTIAL

Missing persons information collected and maintained under this section is subject to the provisions of AS 12.62

Alaska State Legislature

*to Kevin
from Sandra*

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

TO: SENATE H.E.S.S. COMMITTEE MEMBERS

FROM: SENATE H.E.S.S. COMMITTEE STAFF

DATE: APRIL 2, 1985

RE: CHILD PROTECTION LEGISLATION

all changes adopted in HESS CS

SB 243, relating to the protection of children, is scheduled for committee action today. A draft committee substitute, reflecting changes proposed at our earlier hearing on this bill, has been prepared. Specific revisions are as follows:

- | | |
|-----------------|---|
| page 1, line 7 | Title change, per the advice of Legal Division. Sec. 17 has been determined to amend the court rules on evidentiary privilege. |
| page 4, line 9 | Maintains Department's existing authority to take emergency custody of children who have been sexually abused. This section was unintentionally dropped out in the first draft of the bill. |
| page 6, line 12 | Eliminates the requirement of "church counselors" to report child abuse and neglect. |
| page 6, line 16 | Adds guardians and conservators to the list of persons required to report child abuse and neglect. |
| page 7, line 27 | Clarifies that film processors who suspect cases of child pornography allow law enforcement agents access to the material, rather than providing copies of the material. |
| page 9, line 13 | Clarifies that the attorney-client privilege, the psychotherapist-patient privilege, and the clergyman privilege are grounds for excluding evidence regarding a child's harm. |

(The husband-wife and physician-patient privileges would not be grounds for excluding evidence.)

page 9, line 25 Broadens the Department's and a physician's authority to take photographs and X-rays of abused children to any incident, regardless of the perpetrator.

page 10, line 22 Removes the term nonaccidental physical injury from the definition of abuse in the reporting statute. This is intended to alleviate the reporter from having to determine the cause of the injury.

page 12, line 11 This is required language regarding the change in court rules 504 and 505 (per section 17, which prevents the application of physician-patient and husband-wife privileges specified in those rules to evidence obtained through reports).

A letter of intent for SB 243, addressing hiring and training practices for state social workers, has been prepared.

adopted by HESS

SB 3 relating to hearsay evidence in prosecutions for certain sexual offenses, is also scheduled for committee action. A draft committee substitute, which removes "lack of memory" as a definition of unavailable (and thus a reason to admit hearsay evidence), has been prepared.

SB 8 - (HESS CS) -

p. 1, line 23 - added "Dept Health + Soc Serv"

SB 86 - no changes in HESS C.S. from noticing group proposal

SCR 3 - p. 1, line 16 - "or under contract with"

SB 21 - still in HESS committee. (Mandatory checks!)

DRAFT

adopted by HESS

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. SERIOUS AND LASTING

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.



Help For Sexually Abused Children And Their Families

303 E. 15th Terrace, Suite B
Anchorage, Alaska 99501
(907) 276-6440

Sen Patrick Roddy

I have been working with families who are involved in incest and sexual abuse for almost three years. I as well as many others in the different professional capacities are very concerned with the methods by which we handle families of incest. First are we looking for a solution to the problem or are we content with the system? Are we happy building more prisons, placing more on welfare, and is our system cost effective? Many of the experts or professional persons, I've spoke to are all looking to better what we have started and accomplished with our present laws, systems, and methods.

If we can find a better way would we be willing to try it? I hope so. This is why I feel that it's important to send you and all the Legislatures this fact sheet that is from California and the Child sexual abuse treatment program. This same system is being used in other States. Please read this as well as investigate on your own, California's way of handling incest and sexual abuse cases.

I feel that in Alaska the District Attorney's are doing everything in their power to stop or slow this down but they need help with new Legislature. I also feel that if we handcuff our judges with the Presumptive sentence for first time offenders we lose their effectiveness with a fair decision for everyone concern.

Please, if for any reason you need more information concerning this or anything that I can be of help, please call or write to:

Larry D. Brown
9499 Brayton Drive
Anchorage, Alaska 99507
Phone (907) 344-8696

Thank you for anything you can do.

Larry D. Brown



INSTITUTE FOR THE COMMUNITY AS EXTENDED FAMILY

P.O. Box 952, San Jose, California 95108

(408) 280-5055



CHILD SEXUAL ABUSE TREATMENT/TRAINING PROGRAM FACT SHEET

The Child Sexual Abuse Treatment Program (CSATP) of Santa Clara County, California, started in 1971, by Hank Giarretto, Ph.D., has provided in-depth professional and self-help treatment to more than 6,000 sexually abused children and their families. Over 16,000 individuals have been served, many more than by any other single organization in the nation. In 1977, the CSATP staff began to conduct regularly scheduled training workshops which thus far have resulted in the establishment of 140 Additional CSATPs in the U.S., Canada and Australia.

A CSATP is made up of three components: The first consists of the integrated interventions of the professional law enforcement, criminal justice and human services agencies; the second consists of the self-help groups known as Parents United, Daughters and Sons United and Adults Molested as Children United; and the third consists of the cadre of trained volunteers. The persons representing these components work cooperatively for the child-victim's best interests, i.e., with the common understanding that this objective is satisfied in the majority of cases, if the child can be returned to his/her family—a family headed by parents who have been taught to be caring and effective.

Key features and results of the Santa Clara County CSATP approach are:

- The intensive public education effort encourages victims and their parents to report abusive situations. The annual referral rate has increased from 30 cases in 1971 to over 1000 cases in 1984. (The current active caseload averages 800 individuals.)
- Repeated interrogation of the child is avoided since about ninety percent of father-offenders confess their sexually abusive behavior to the authorities.
- Over ninety percent of the children avoid foster or institutional placement and remain with their mothers and siblings (father-offenders are given no-contact orders and leave their home).
- After long term therapy, father-offenders are returned to their homes only if they are deemed both physically and psychologically safe for their children.
- The reported recidivism rate among father-offenders who have been treated has remained at less than one percent.
- Child-victims treated by CSATP do not persist in the self-abusive behavior (promiscuity and other sexual behavior problems, drug and alcohol abuse, marital difficulties, criminal activities, etc.) reported by adults who were molested as children who did not receive individual and family therapy.
- The CSATP method is cost-effective:
 - a. Typically, a CSATP is coordinated by personnel in existing official agencies (child protective services, mental health agencies, probation and police departments).
 - b. Due to the use of volunteers, especially in the crisis stages, the cost to the community for client contacts is very low (less than \$3 per contact-hour).
 - c. Most of the families are reconstituted and, therefore, the community is not saddled with costs of foster home and institutional placements and welfare payments.
 - d. Because most of the fathers confess (about 90%), the costs due to prolonged court proceedings are sharply curtailed.
 - e. The fathers usually are rehabilitated within the community and do not receive long prison sentences. Those serving short jail sentences are placed on work furlough. The county and the state, therefore, avoid the high costs of incarceration and of family upkeep.
 - f. Since the fathers continue to work, there are no losses in federal and state tax revenues due to unemployment.

Above all must be stressed the ability of the CSATP to induce children and their parents to report the abusive situations and to treat them successfully. From a humane viewpoint, it is immensely gratifying to note that the children will not suffer lifelong devastation from the incestuous experience. From a social health viewpoint, it is also rewarding to realize that, when treated early, abused children are not likely to become the future social delinquents and/or criminals of society, as attested to by recent studies indicating that about eighty percent of our prisoners were physically, and/or sexually abused as children. A detailed description of the principles, methods and results of the CSATP is given in the book, "Integrated Treatment of Child Sexual Abuse" by Dr. Giarretto.

Hein
3/19/8

1 IN THE SENATE

BY THE HEALTH, EDUCATION &
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;
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 interest-
11 person [AS DEFINED IN (e) OF THIS SECTION] may request from the co-
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 [INVOLVED]
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 individ-
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,