

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4080

SJUD

SB 243

200

Senator Pat Rodey
April 30, 1985
Page 5

include exploitation by persons not responsible for the child's welfare.

Sec. 23 adds new definitions for terms introduced in section 13 of the bill and for the term "person responsible for a child's welfare", which appears in several places in AS 47.17.

Sec. 24 increases the possible penalty for violation of AS 47.35 to a maximum 90 days' imprisonment and a maximum fine of \$1,000. Current law allows no imprisonment and a maximum fine of \$200.

Sec. 25 authorizes the Department of Health and Social Services to levy civil fines of up to \$200 per day for licensing violations under AS 47.35.

EHH:ojb
J14/062

Alaska State Legislature

CO-CHAIRMAN
FINANCE COMMITTEE

907-463 3740



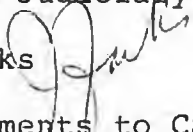
JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

April 29, 1985

MEMORANDUM

TO: Members, Senate Judiciary Committee

FROM: Senator Jan Faiks 

SUBJECT: Requested amendments to CS for Senate Bill 243
(Judiciary)

Parochial schools are an extension of the church's ministry, and their staff members are an integral part of this mission. The teachers at these schools offer, furnish counseling and receive confidences which are similar to communications that are now protected by the clergyman privilege of our evidence code.

So that we do not interfere with this form of religious practice, I ask you to approve the following amendments to the Committee Substitute for Senate Bill 243 (Judiciary).

On page 7, line 14 should be amended to read: (2) employees and volunteers of public schools and private schools which are not affiliated with a recognized church or religious denomination.

On page 12, line 3 of the bill, the following words should be deleted: [religious healing practitioners].

Thank you for considering these amendments.

Original sponsor: Health, Education and
Social Services Committee

1
2 IN THE SENATE

BY THE JUDICIARY COMMITTEE

3 CS FOR SENATE BILL NO. 243 (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 the protection of children."

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

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

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

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

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

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

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

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

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

1
2 * Sec. 3. AS 11.61.125(a) is amended to read:

3 (a) A person commits the crime of distribution of child pornog-
4 raphy if the person brings or causes to be brought into the state for
5 [SAL' '1 distribution, or in the state distributes, or in the state
6 possess' prepares, publishes, or prints with intent to distribute,
7 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-
8 ial that visually depicts conduct described in [UNDER] AS 11.41.-
9 455(a), knowing that the production of the material involved the use
10 of a child under 18 years of age who engaged in the conduct.

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

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

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

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

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

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

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

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

18 (a) Proceedings relating to a minor under 18 years of age
19 residing or found in the state are governed by this chapter, except as
20 otherwise provided in this chapter, when the court finds the minor

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

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

24 (A) the child being habitually absent from home or
25 refusing to accept available care, or having no parent, guardian,
26 custodian or relative caring or willing to provide care,
27 including physical abandonment by

28 (i) both parents,

29 (ii) the surviving parent, or

(iii) one parent if the other parent's rights and

1
2 responsibilities have been terminated under AS 47.10.080 or
3 voluntarily relinquished;

4 (B) the child being in need of medical treatment to
5 cure, alleviate, or prevent substantial physical harm, or mental
6 harm as evidenced by failure to thrive, severe anxiety,
7 depression, withdrawal, or untoward aggressive behavior or
8 hostility toward others, and the child's parents are unwilling to
9 provide the medical treatment;

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

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

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

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

28 * Sec. 8. AS 47.10.081(c) is amended to read:

29 (c) The court shall inform the child, the child's parents, [AND]
the attorneys representing the parties, and the guardian ad litem that

1
2 the predisposition report will be available to them not less than six
3 working [10] days before the disposition hearing.

4 * Sec. 9. AS 47.10.142(a) is repealed and reenacted to read:

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

8 (1) the minor has been abandoned;

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

14 (3) the minor has been abused by a person responsible for
15 the minor's welfare, as "abuse" is defined in AS 47.17.070(1), and the
16 department determines that immediate removal from the minor's sur-
17 roundings is necessary to protect the minor's life or that immediate
18 medical attention is necessary;

19 (4) the minor has been sexually abused under circumstances
20 listed in AS 47.10.010(a)(2)(D) and the department determines that
21 immediate removal from the minor's surroundings is necessary to pro-
22 tect the minor from further sexual abuse.

23 * Sec. 10. AS 47.10.142(c) is amended to read:

24 (c) When a child is taken into custody under (a) or (b) of this
25 section, the department shall immediately, and in no event more than
26 12 hours later unless prevented by lack of communication facilities,
27 notify the parents or the person or persons having custody of the
28 child. If the department determines that continued custody is neces-
29 sary to protect the child, the department shall notify the court of
the emergency custody by filing, within 24 hours after custody was

1
2 assumed, [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-
3 tion alleging that the child is a child in need of aid. If the de-
4 partment releases the child within 24 hours after taking the child
5 into custody and does not file a child in need of aid petition the
6 department shall, within 24 hours after releasing the child, file with
7 the court a report explaining why the child was taken into custody.

8 * Sec. 11. AS 47.10.290 is amended by adding a new paragraph to read:

9 (8) "sexual abuse" means

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

12 (B) the perpetrator's knowingly touching, directly or
13 through clothing, the genital area, groin, inner thighs, or
14 buttocks of a child, or causing a child to touch, directly or
15 through clothing, the genital area, groin, inner thighs, or
16 buttocks of the perpetrator or another; sexual abuse does not
17 include reasonable touching in the exercise of normal caretaker
18 responsibilities for a child or normal caretaker interactions
19 with a child or touching performed for the purpose of adminis-
20 tering a recognized and lawful form of treatment that is rea-
21 sonably adapted to promoting the physical or mental health of the
22 child; reasonable perceptions of the child that the touching is
23 sexual in nature are relevant to the determination of whether the
24 touching is sexual abuse;

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

1
2 (D) statements to a child that express a desire or
3 intent to have sexual contact or sexual penetration with the
4 child or encourage the child to have sexual contact or sexual
5 penetration with the perpetrator or another.

6 * Sec. 12. AS 47.17.010 is amended to read:

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

19 * Sec. 13. AS 47.17.020 is repealed and reenacted to read:

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

- 23 (1) practitioners of the healing arts;
24 (2) employees and volunteers of private and public schools;
25 (3) human services providers;
26 (4) peace officers, and officers of the Department of
27 Corrections;
28 (5) administrative officers of institutions;
29 (6) child care providers;
(7) counselors;

1
2 (8) custody investigators;

3 (9) employees and volunteers of domestic violence programs,
4 sexual assault programs, or crisis shelters;

5 (10) guardians and conservators.

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

17 (c) 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, shall prompt-
20 ly report the harm to the nearest law enforcement agency if the person
21 making the report (1) has cause to believe that the harm was caused by
22 a person who is not responsible for the child's welfare; or (2) is
23 unable to determine (A) who caused the harm to the child; or (B)
24 whether the person who is believed to have caused the harm has respon-
25 sibility for the child's welfare. If a person making a report under
26 this subsection cannot reasonably contact the nearest law enforcement
27 agency, and immediate action appears necessary for the well-being of
28 the child, the person shall make the report to the nearest office of
29 the department. The department shall take immediate action to protect
the child and shall, at the earliest opportunity, notify the nearest

1 law enforcement agency.

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

9
10 * Sec. 14. AS 47.17 is amended by adding a new section to read:

11 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person
12 who, in the course of processing or producing visual or printed
13 matter, either privately or commercially, has reason to believe that
14 the matter visually depicts a minor engaged in conduct described in
15 AS 11.41.455(a) shall promptly report this to the nearest law enforce-
16 ment agency. The person shall allow law enforcement agents access to
17 the material and provide the law enforcement agency with all informa-
18 tion known about the origin of the matter.

19 * Sec. 15. AS 47.17.025 is repealed and reenacted to read:

20 Sec. 47.17.025. DUTIES OF PUBLIC AUTHORITIES. (a) After re-
21 ceiving a report of harm to a child resulting from abuse or neglect by
22 a person responsible for the child's welfare, a law enforcement agency
23 shall immediately notify the Department of Health and Social Services
24 and the Department of Law. The Department of Health and Social Ser-
25 vices shall investigate the report and, within 72 hours after receiv-
26 ing the report, shall provide a written report of its investigation to
27 the Department of Law for review. If after a preliminary investiga-
28 tion the Department of Health and Social Services determines that the
29 harm was not caused by a member of the child's family, the department
shall so notify the Department of Law.

1
2 (b) A report of harm to a child from abuse or neglect required
3 from the department by this section must include:

4 (1) the names and addresses of the child and the child's
5 parents or other persons responsible for the child's care, if known;

6 (2) the age and sex of the child;

7 (3) the nature and extent of the harm to the child;

8 (4) the name and age and address of the person known or
9 believed to be responsible for the harm to the child, if known;

10 (5) information that the department believes may be helpful
11 in establishing the identity of the person believed to have caused the
12 harm to the child.

13 * Sec. 16. AS 47.17.040(b) is amended to read:

14 (b) Investigation reports and reports of harm filed under this
15 chapter are considered confidential and are not subject to public
16 inspection and copying under AS 09.25.110 and 09.25.120. However, in
17 accordance with department regulations, investigation reports may be
18 used by appropriate governmental agencies with child-protection func-
19 tions, inside and outside the state [ALASKA], in connection with
20 investigations or civil or criminal [JUDICIAL] proceedings involving
21 [CHILD] abuse, neglect, or child custody. A person, not acting in
22 accordance with department regulations, who makes public information
23 contained in confidential reports is guilty of a misdemeanor.

24 * Sec. 17. AS 47.17.050 is amended to read:

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

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

1
2 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. The department or a
3 practitioner of the healing arts may, without the permission of the
4 parents, guardian, or custodian, take the following actions with
5 regard to a child believed to have suffered physical harm as a result
6 of abuse or neglect:

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

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

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

13 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person
14 who knowingly fails or refuses to report as required under AS 47.17.-
15 020 or 47.17.023 is guilty of a class B misdemeanor.

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

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

20 (1) has sexually abused a child;

21 (2) has physically abused a child;

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

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

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

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

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

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

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

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

15 (7) "sexual exploitation" means

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

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

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

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

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

29 (10) "organization" means a group or entity that provides
care and supervision to a child not related to the caregiver, and

1
2 includes a child care facility, pre-elementary school, head start
3 center, child foster home, residential child care facility, recreation
4 program, children's camp, and children's club;

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

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

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

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

17 (b) The department may by regulation devise a system of civil
18 enforcement. The system may employ civil penalties not to exceed \$200
19 for each day during which one or more violations of a licensing stat-
20 ute or licensing regulation occurs. The imposition of a civil penalty
21 does not prevent prosecution and sentence for a criminal offense.
22
23
24
25
26
27
28
29



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

April 10, 1995

Senator Pat Rodey
Chair, Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

I am writing with regard to CSSB 243 (HESS), relating to the protection of children, which is now before the judiciary committee. My comments are specifically directed to proposed section 12 (page 6), which includes "court investigators" within the group of persons required to report abuse or neglect of a child.

The court system is opposed to this provision. First, the meaning of the term "court investigators" is unclear, since there is no such position title within the court system (although there are custody investigator positions in Anchorage and Fairbanks). Second, court personnel should not be held to a higher duty than ordinary citizens in reporting incidents of this nature, especially given the court's adjudicatory role. This requirement could create the appearance that the court is taking sides in any legal disputes which may later arise. The court system believes its role should be limited to adjudication of cases, and should not be expanded to include a nonadjudicatory reporting function.

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

If both CSSB 28 and CSHB 88 are enacted, court system personnel would be required to report abuse, and the court system would be required to provide training. The court system would not independently develop training materials, but instead would

rely upon materials developed by the executive branch. However, the court system would still have to reproduce and disseminate these materials, as well as provide some minimal training, in the form of one visit by administrative staff to each judicial district to train supervisors. The total cost of this limited training program is estimated at \$4,000. A copy of the court system's fiscal note is attached.

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

Sincerely,



Karla L. Forsythe
General Counsel

KLF:amh

cc: Senator Bettye Fahrenkamp
Chair, Senate HESS Committee

Senator Jan Faiks
Co-Chair, Senate Finance Committee

Senator John Sackett
Co-Chair, Senate Finance Committee

6000 SHEPHERD LUTHERAN CHURCH
P.O. BOX 1820
WASILLA, ALASKA 99687

April 9, 1985

Senator Pat Rodey, Chairman
Senate Judiciary Committee
Pouch V, State Capitol
Juneau, AK 99811

Dear Senator Rodey:

I am writing to encourage you to support the provision for excluding clergy from being forced to testify in court concerning child abuse cases. It is very important to protect the role of "confessor" among the clergy.

I believe that persons who are connected to a church must have the confidence that they can speak openly with their pastor on all topics without fear that the pastor will be forced to reveal what has been confessed in the privacy of professional pastoral counseling.

As for the church being an advocate of the family, we have a 2000 year record of concern for the total well-being of the family. It seems a bit of "Johnny come lately" for the state to all of a sudden claim total authority and total concern for children and families and to disallow the church its healing role in all dis-functioning families.

I also have a concern that the eight-year presumptive sentence for sexual abuse should be amended to allow more leniency for the abuser who willingly confesses his crime with the intention of seeking help. These are the persons most amenable to change and therefore should be the ones that a judge could sentence to a shorter incarceration. Any jail time will be very hard on the family. Eight years may destroy more families than it helps.

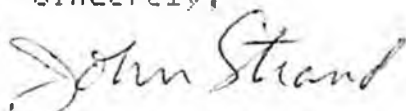
In saying this I am fully aware of the "crime" involved and the necessity of punishment. But the punishment must take into account the amount of devastation that will occur to the entire family given the eight-year presumptive sentence.

I want you to know that I am working closely with Dr. George Brown and the Division of Family and Social Services in the valley group "Friends of Families." Our purpose is to educate the public and support the victims of child abuse. We must all work together to help end this vicious cycle of molestation and abuse.

Page 2

Thanks for your concern for the totality of the family and for those of us who work daily to strengthen this most basic unit of our society.

Sincerely,

A handwritten signature in cursive script that reads "John Strand". The signature is written in dark ink and is positioned above the typed name.

John Strand, Pastor



St. John Lutheran Church

Box 774 East Elmwood at Eklutna Phone 745-3338 Palmer, Alaska 99645

REV. CHARLES ALSPAUGH, Pastor
PHONE 745-3438

April 12, 1985

MR. DAVID NUFER, DCE
PHONE 745-6528

Senator Edna DeVries
Committee on Community & Regional Affairs
Pouch V
Juneau, AK. 99811

Dear Edna,

Thank you for your correspondence concerning SB 243 substitute. Since I have not had opportunity to study the actual substitute bill, my comments must be seen in that light. I would, however, like to convey a couple of thoughts relative to your reservations.

We had a class for Pastors (Pastor Counseling) at Mat-Su Community College two years ago taught by Dr. Woll Miles of the Samaritan Counseling Center. Family counseling was the major topic and child abuse received much discussion. My personal conclusion was that there is a greater danger in that often pastors are not qualified to handle the counseling task, yet do not refer to a competent source nor report the abuse to the authorities. After many years of trying to work with some very difficult situations, I have concluded that it is best to refer, report, and then give pastoral support to the family. While I cannot speak for the other Valley pastors, this did seem to me to be the consensus of those participating in the class. Often there will be pressures from family or others which resists referral or reporting to authority. This is to be expected. A Law which requires the pastor to act in such a manner can actually be a big help to all concerned. It takes the pastor off the hook and allows him to act as a support person rather than as an antagonist.

There is another side to it. I had a situation referred to me last month. I insisted that it be reported to the authorities. The State Troopers were informed. Then I spent three weeks trying to get Social Services to work with the situation. The case workers treated me, not as a complimentary resource, but as a threat to their authority. They say they are too busy. They passed the buck. They told me that they would check on things which they did not. Now, if pastors are going to be required to report child abuse (which I think they should), the State is going to have to address the problem of case loads and some attitudes at the local social services.

I am not at this time seeking to accuse the social workers. I am sure that much helpful service is rendered to the community. It's just that it is very difficult for all concerned -- family, pastors, neighbors, and case workers-- when the matter cannot be handled promptly and with positive results. The challenge to meet the problem of child abuse is great. The solution must touch all aspects of dealing with it. There's no question but that the

extreme growth of our Valley causes a strain on the local social work department. I would encourage both increased awareness and increased/improved means for meeting the crisis.

Your other concern is with church schools. The Lutheran Church - Missouri Synod supports the nation's largest protestant Christian school system. We often struggle with what is school and what is pastoral. Obviously, we want our Christian schools to be different and I believe they are. The school staff, however, is not involved in pastoral counseling. It's bad enough for pastors not to report an abuse but there is even less chance that the problem could be met through a school situation. Generally, the staff of a Christian school is not trained in psychology and counseling. They need to refer those involved to a competent resource.

Perhaps the wording of the resolution was a greater problem to you than the principle of reporting abuse to the authorities. I am certain of your personal concern for the welfare of children. In Christ, we share our mutual concern for the well-being of children and families. How to best do this is not always as obvious. Pastors and schools are on the "cutting edge." We are often the first professionals to come in contact with abusive situations. It is important that we work together with community resources and with mutual respect from both pastors and community agencies.

Sincerely,

Charles Alspaugh/mr
Rev. Charles Alspaugh

CA/mr

cc: Senator Pat Rodey
Senator Arliss Sturgulewski

4410 N. Douglas Hwy.
Juneau, Alaska 99801
April 9, 1985

The Honorable Pat Rodey, Chairman
Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Rodey:

Although we see the need for legislation dealing with child abuse, it is our opinion that the Committee Substitute for Senate Bill 243, an act relating to the protection of children, contains language subject to such broad and questionable interpretation that the protection afforded children by their own parents is jeopardized.

For example, the substitution in Section 11 AS 47.17.010 of the words "preserving it is in the best interests of the child" for the word "possible" allows disregard for the rights of the family unit.

Because the reporting requirements extend to counselors, and because of other references in this bill that seem to open the door for disregarding rights of the family, we urge you to oppose CS for SB 243.

It is our sincere desire that you will be able to enact legislation relating to the protection of children while protecting the family unit.

Sincerely,

*Mrs. Carol Gray
Phillip L. Gray*

Mrs. Carol Gray
Mr. Phillip Gray

Richard L. Block
2347 Hialeah Drive
Anchorage, AK 99503
April 6, 1985

Honorable Pat Rodey, Chairman
Senate Judiciary Committee
Pouch V
State Capitol
Juneau, AK 99811

Re: Senate Bill 243
An Act Relating to the Protection
of Children

Dear Pat:

I am a Christian Scientist and an active and practicing member of the Christian Science Church in Anchorage. In that capacity I have been asked by the Christian Science Committee on Publication for Alaska to bring to your attention the need to make two amendments to the child protection legislation pending before your committee.

As you are surely aware, a practicing Christian Scientist relies exclusively on prayer for healing of all problems, including healing of physical ailments, for himself and for the members of his family. This reliance on prayer as an exclusive method of healing and as an alternative to medical means for oneself and one's family is recognized legislatively by the laws of almost all states and the federal law. It is already so recognized by several Alaska statutes, including AS 11.51 and AS 47.10, which are the areas of law which SB 243 seeks to amend.

For example, in 11.51.120(b) there is statutory recognition that relying on treatment solely by spiritual means for healing of a child is not "failure to provide medical attention."

As your committee considers adding AS 11.51.110, a statute which would make it a misdemeanor to fail to provide medical attention to a child, albeit under more severe circumstances, we would suggest that the parent or guardian or person entrusted with the care of a child should not be considered guilty of such a crime by reason of that person's reliance on prayer. Accordingly, I would urge you to add to AS 11.51.110(2) the following:

Honorable Pat Rodey

April 5, 1985

Page 2

There is no failure to provide medical attention to a 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.

Our other area of concern is in the reporting of child abuse provisions, under AS 47.17. The law already recognizes Christian Science practitioners as a "practitioner of the healing arts" (AS 47.17.070(6)), and requires them to report incidents of child abuse. Because the language of AS 47.17.020, particularly as amended as proposed in SB 243, read together with the definition of "neglect" as currently in the law (AS 47.17.070(5)), makes it incumbent upon a Christian Science practitioner to report a situation in which a child is not being provided medical care, it creates the very unfortunate situation that if a sincere and conscientious Christian Science parent seeks treatment solely by spiritual means for a child with a physical problem, the practitioner providing such treatment is guilty of a crime for not reporting it. We are certain this is not what the Legislature intends. It would be completely inconsistent with recognition given to treatment solely by spiritual means embodied in AS 47.10.065 and AS 47.10.080(k). We suggest that AS 47.17.020 be amended by adding a new subsection as follows:

- e) 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 being 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.

Honorable Pat Rodey

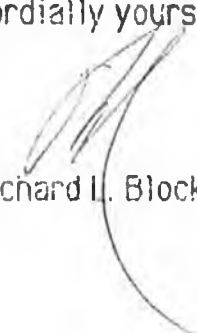
April 6, 1985

Page 3

These amendments have been discussed with the Department of Health and Social Services and approved by them.

With appreciation for your consideration of our position I remain,

Cordially yours,



Richard L. Block

CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION
FOR ALASKA

A. Robert Hahn
630 Oceanview Drive
Anchorage, AK 99515

MEMORANDUM

TO: Representative Rick Uehling

DATE: January 26, 1985

FROM: A. Robert Hahn
Committee on Publication for Alaska

RE: House Bill 88

New section 11.51.110, ENDANGERING THE WELFARE OF A MINOR, essentially covers the same idea in (a)(2) -- "failing to provide the child with ... medical attention" as is covered in 11.51.120, CRIMINAL NONSUPPORT, which has a specific exemption in subsection (b) which states:

(b)...There is no failure to provide medical attention to a 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.

This exemption is important to Christian Scientists as it protects their right to provide treatment by prayer for their children in lieu of medical treatment. It is important to recognize that Christian Science treatment through prayer is recognized by the Federal government, the legislatures of the states and the health insurance industry as a viable and effective alternative to treatment by medical means. We feel sure the Alaska legislature will wish to retain the right of individuals to treat their children through prayer as that same protection is accorded elsewhere in the Alaska Statutes. Attached is a suggested addition to the proposed new section 11.51.110 to accomplish this result.

In A.S. 47.17.070(1) it is also our position that in order to be consistent in maintaining the exemption granted in other sections of the code (see for example, A.S. 47.10.080(k) and A.S. 47.10.085) the language contained in the attached amendment should be included in that section.

Your assistance in securing these amendments is deeply appreciated.

A. Robert Hahn
Committee on Publication
for Alaska

A.S.11.51.110(a)(2) shall include the following language in order to make said section consistent with A.S.11.51.120(b):

There is no failure to provide medical attention to a 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.

A.S.47.17.070 is amended to read:

47.17.070 Definitions. (a) In this chapter

(1) ...etc....

(b) a child is not subjected to neglect or mental injury, solely by reason of a person related to and responsible for the welfare of a child under the age of 18 not providing medical attention to the child if the child is provided treatment 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.

Hein.

A M E N D M E N T

Offered in the SENATE

By Rodey

TO: CSSB 243(HESS)

Page 4, line 19, after "assumed" insert " , "

Page 4, line 20, after "aid." insert:

"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."

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

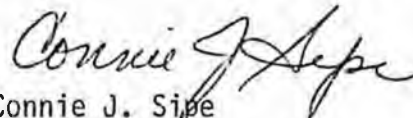
April 24, 1985

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

ALASKA STATE OFFICE

April 12, 1985

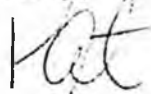
Mr. Brant McGee
Office of Public Advocacy
900 W. 5th Avenue, Suite 525
Anchorage, Alaska 99501

Dear Mr. McGee:

This will confirm my aide's conversation with you earlier today regarding my request to have a representative of your agency to appear before the Senate Judiciary Committee to testify on Senate Bill 243 and companion legislation. The Committee will meet on this bill on Tuesday, April 16 at 1:30p.m.

I appreciate your assistance to the committee on this matter.

Sincerely,



Patrick M. Rodey



ALASKA BAR ASSOCIATION

P.O. BOX 100279, ANCHORAGE, ALASKA 99510, (907) 272-7489

FAMILY LAW SECTION

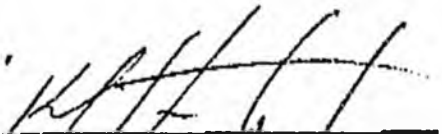
April 11, 1985

Senator Pat Rodey
Senate Judiciary Committee
Re: S.B. 243/ H.B. 88

Dear Senator;

Our committee is very interested in the issues raised in these bills. We are having a working session on the bills this coming Monday and expect to have concrete recommendations. We look forward to working with you, the Committee and the Committee staff.

Sincerely,


Karla F. Huntington
Co-Chairperson

POSITION PAPER

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 243

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

Committee Substitute for SB 243 is part of a comprehensive approach to enhancing the State's ability to protect children who have been abused or neglected. Both improved laws and resources are needed to provide effective State intervention in cases of child neglect or abuse. This Bill is the result of extensive review and proposal by the executive and legislative branches of government. Major components of the Bill will:

- strengthen existing pornography laws by prohibiting selling or distribution of child pornography and by requiring film processors to report suspected cases of child pornography;
- improve the law, as it applies to a child sexual assault victim, through a "rape shield" statute whereby the child victim is protected from unwarranted invasion into her/his private life;
- allow assumption of emergency custody of grossly neglected children who need immediate medical attention rather than requiring that their life be endangered before emergency custody can be assumed;
- provide practical procedures for predisposition reports in delinquency proceedings and for assuming emergency custody of an abused or neglected child;
- provide a civil definition for child sexual abuse;
- expand the classification of persons required under the law to report suspected child abuse or neglect;
- authorize the State to enjoin dangerous persons from child contact;
- authorize a system of civil fines to enhance enforcement of the child care licensing law; and
- facilitate prosecution where appropriate.

The Governor has repeatedly emphasized a top priority of his administration is the need to address child abuse and neglect. First, the Governor clearly stated in his budget that the major need, to effectively respond to the existing dramatically growing reports of harm to children, was additional resources. Secondly, the Governor developed a comprehensive bill (HB 88) requesting statutory improvements in order to give children greater protection against abuse and neglect.

Position Paper
CS SB 243
Page 2

The department supports the inclusion of the sexual abuse definition in section 11 (page 6 line 8) in order to assist the Department of Law in their Child in Need of Aid proceeding. Presently the Department of Law is using the criminal statute definition hence, an actual sexual assault must occur. In order to effectively prevent a sexual assault of a minor the department needs the ability to intervene when the parent is "grooming" the child for future sexual penetration. Attached to this position paper is an analysis of section 11 developed by the Department of Law. However the department suggests adding the reasonable perception clause to subsection (C) as well as (B).

Practical and important improvements to the State's civil and criminal laws are needed but will not alone meet the challenge of ensuring adequate protective services for children in Alaska. Both the child protection staff increments originally contained in the Division of Family and Youth Services FY 86 operating budget and the management information system for the division contained in the capital budget must be fully funded to adequately address the problem. Only with improved laws, resources, and enhanced management will Alaska effectively break the destructive cycle of child abuse and neglect.

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

DATE: April 25, 1985

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

DATE: 4-25-85

Section 11 Analysis

Section 11 defines the term "sexual abuse" for purposes of civil child in need of aid (CINA) proceedings under AS 47.

Sexual abuse literature often references the sexualized grooming process by which sexually abusive parents prepare children for their use for sexual purposes. The definition proposed in this legislation allows the child protective system to back up the child when the child says "no" to the grooming conduct. This allows the child to enlist the aid of the child protective system to stop the sexual abuse before it becomes more serious and more damaging to the child or his or her family.

It is necessary to define the term "sexual abuse" to prevent legal attacks of the child protection statute [AS 47.10.010(a)(2)(d)] as void for vagueness. Because there is room for debate as to exactly what sexual abuse means, a court may not permit CINA cases to be brought under any facts other than conduct which constitutes a crime. While on its face this might seem to be acceptable, the following example is offered to highlight the harm which can arise in narrowing Child in Need of Aid jurisdiction to only "criminal" conduct.

An intoxicated father strokes the upper inner-thigh of his 10-year-old daughter repeatedly while making highly sexualized comments to her. The child reports that she feels the contact was sexual, that she feels used sexually, demeaned, and expresses all the same fears and emotions of a sexually abused child. The child also reports extreme fear that the next step will be that her father will attempt intercourse with her. The child's father denies any sexual intent.

Under these facts, the State cannot prosecute the father. The child protection system, however, approaches cases solely from the perspective of child protection (i.e., not punishment). The circumstances described above cause harm to the child which is qualitatively the same as if actual intercourse had occurred (qualitatively one might predict that the consequences might be less harmful to the child in this case). The State has and will spend tens of thousands of dollars funding programs to tell children that they have a right to say "no" to adults initiating sexual contact with them. Limiting CINA jurisdiction only to those instances which can be prosecuted as a crime means that if a child says "no" to highly sexualized parent-child conduct which falls short of a crime, the child's protection system will not back him or her up. The child in the above example must wait until the sexual abuse progresses to the level of severity which warrants incarceration of her father. A vote for the language of this definition is a vote for early detection and prevention.

Reasonable perception of the child should be considered by the court. The reasonable perceptions of the child are critical to the determination of child in need of aid jurisdiction on the grounds of

sexual abuse. Because the child protection statutes are designed to protect children from the mental and emotional harm which results from sexual contact between a parent and a child, the child's perception that he or she is being used sexually is highly relevant to determining whether sexual abuse has occurred. In the above example, it really does not matter if the father intended the conduct to be sexual or sexually gratifying. What is important for child protective purposes is that the child is being harmed because she reasonably perceives that her father's contact with her is sexual. Because her perception is reasonable, it should be considered by the court in arriving at its decision. If the child reasonably perceives the contact is sexual, the child protective system ought to be able to step in to insist that the harmful conduct stop.

COMMITTEE REPORTS (Senate)(cont'd)

Appropriation SENATE BILL NO. 180, (see page 295). Reported back to the
(special) Senate on April 2 by Transportation with the committee recom-
(Valdez boat mending it do pass. Concurring: Coghill (Chairman), Abood
harbors) and Josephson. To Finance.

Appropriation SENATE BILL NO. 202, (see page 351). Reported back to the
(special) Senate on April 2 by Transportation with the majority recom-
(Eagle River mending do pass. Concurring: Coghill (Chairman) and Abood.
Hiland Bridge) Josephson signed "no recommendation." To Finance.

AK State Fire SENATE BILL NO. 209, (see page 386). Reported back to the
Commission Senate on April 2 by State Affairs with the committee recom-
 mending it be replaced with a State Affairs substitute and as
 follows: Abood (Chairman), DeVries and Vic Fischer signed "no
 recommendation." Kelly signed "do not pass unless amended." Ray
 signed "do pass." To Finance.

The State Affairs CS adds, under section on procedures and staff:
"Powers of the commission may be exercised by an affirmative vote
of the majority of the commission."

Appropriation SENATE BILL NO. 210, (see page 387). Reported back to the
(special) Senate on April 2 by State Affairs with the committee recom-
(AK State Fire mending as follows: Abood (Chairman), DeVries and Vic Fischer
Commission) signed "no recommendation." Kelly signed "do not pass." Ray
 signed "do pass." To Finance.

Exploited & SENATE BILL NO. 219, (see page 392). Reported back to the
Missing Senate on April 2 by State Affairs with the committee recom-
Children it do pass with a letter of intent. Concurring: Abood
 (Chairman), DeVries, Kelly and Ray. To HESS.

The letter of intent states:

It is the intent of the legislature that funding for the core
Special Unit for the Investigation of Criminally exploited and
Missing Children be utilized to establish an investigative
unit to combat the problems presented by the criminal exploi-
tation of children and missing children.

The Unit will function with a manpower structure based upon
that employed by the METRO Drug Units. The core unit will be
based in Anchorage, but the Unit is expected to provide as-
sistance to other law enforcement agencies.

The funding for the Unit is envisioned as a budgetary addendum
to the Department of Public Safety pass through grant to the
Municipalities."

Child SENATE BILL NO. 243, (see page 467). Reported back to the
Protection Senate on April 3 by Health, Education & Social Services
 with the committee recommending it be replaced with a HESS
 substitute and the majority recommending it do pass with a letter
 of intent. Concurring: Fahrenkamp (Chairman), Josephson and

COMMITTEE REPORTS (Senate)(cont'd)

SB 243 (cont'd)

Sturgulewski. DeVries signed "no recommendation." To Judiciary.

The letter of intent states:

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

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

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

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

The HESS substitute makes the following changes:

--Under section (Sec. 8) listing circumstances under which the Dept. of Health and Social Services make take emergency custody of a child, adds: "(4) the minor has been sexually abused under circumstances listed in AS 47.10.010(a)(2)(D)." AS 47.10.010 (a)(2)(D) relates to jurisdiction of the state in children's proceedings and grants the state jurisdiction when a child is in need of aid as a result of "(D) the child having been sexually abused either by the child's parent, guardian or custodian, or as a result of conditions created by the child's parent, guardian or custodian, or by the failure of the parent, guardian or custodian adequately to supervise the child."

--Eliminates requirement contained in original (Sec. 12) that would have required church counselors and therapists, whether licensed or not, to report suspected cases of abuse or neglect.

--Under section (Sec. 13) on reporting child pornography by persons who process or produce visual or printed matter, requires that the person "allow law enforcement agents access to the material." Original required person to "provide copies of the material to the law enforcement agency."

COMMITTEE REPORTS (Senate)(cont'd)

SB 243 (cont'd)

--Rewrites section (Sec. 17) on privileged evidence to read: "In civil or criminal proceeding related to a report under this chapter, no privilege is a ground for excluding evidence regarding a child's harm, or its cause, except (1) the attorney-client privilege; (2) the psychotherapist-patient privilege; and (3) the clergyman privilege." Original amended existing law to read: "Neither the physician-patient nor the husband-wife privilege is a ground for excluding evidence regarding a child's harm, or its cause, in a civil or criminal proceeding related to a report made under this chapter."

--Changes section on photographs and x-rays (Sec. 18) to read: "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 abuse or neglect [BY A PERSON RESPONSIBLE FOR THE CHILD'S WELFARE] ..." (underlined material added, bracketed material deleted from original).

--Deletes "nonaccidental" from new definition of "abuse" in Sec. 21. Was defined as "nonaccidental physical injury, sexual abuse, sexual exploitation, or maltreatment ..."

--Adds new Sec. 27: "AS 47.17.060, as repealed and reenacted in sec. 17 of this Act, has the effect of changing Rules 504 and 505, Alaska Rules of Evidence, by preventing the application in civil or criminal cases of certain privileges specified in those rules to evidence obtained through reports made under AS 47.17."

Appropriation (supplemental). (Sr. Citizens' Tax Exemption program) SENATE BILL NO. 249, (see page 473). Reported back to the Senate on April 3 by Community & Regional Affairs with the majority recommending it do pass. Concurring: Sturgulewski, Vic Fischer and Coghill. DeVries (Chairman) signed "do pass if money available." To Finance.

Automobile Service Corporations SENATE BILL NO. 260, (see page 510). Reported back to the Senate on April 4 by Labor & Commerce with the committee recommending it do pass. Concurring: Eliason (Vice-Chmn.), Ray and Sackett. To Rules.

BILLS PASSED IN THE SENATE

Elevator Safety Standards (revising) CS FOR HOUSE BILL NO. 64 (L&C), (see pages 57;161;420;432;463). Reported back to the Senate on April 1 by Labor & Commerce with the committee recommending it do pass. Concurring: Eliason (Vice-Chairman), Bennett and Ray. To Rules.

Passed the Senate on April 2, 18-0-2. Excused: P. Fischer, Zharoff.

Correctional Restitution Centers CS FOR SENATE BILL NO. 4 (FINANCE)(AMENDED), (see pages 1;267;301;515;523;567). Before the Senate on Monday, April 1 with a motion pending to adopt Part C of Kelly's amendment.

CSSB 243 (HESS), Relating to the protection of children

SECTION-BY-SECTION ANALYSIS

Section 1

Under existing AS 11.51.100, endangering the welfare of a minor, it is class C felony offense for a parent or guardian to intentionally desert a child under circumstances which place the child in substantial danger of injury. Section 1 of this bill adds "in the first degree" to the title of the existing crime (sec. 2, below, adds a "second degree" form of the crime), and expands the law's coverage to children under the age of 13 (rather than under age 10).

Section 2

This section creates a new class A misdemeanor crime: endangering the welfare of a minor in the second degree. A person commits this crime if he has been entrusted with the care of a child under 13 and either: (1) negligently exposes the child to circumstances creating a substantial risk of injury or abuse, or (2) negligently exposes the child to physical injury by failing to provide the child with necessary care, food, shelter, or medical attention.

Sections 3 and 4

Under AS 11.61.125, enacted in 1983, it is a class C felony offense to bring child pornography (visual depictions of children engaged in sex acts) into the state for sale or distribution. The law also prohibits possession or publication of such material with intent to sell it. As presently written, however, AS 11.61.125 does not explicitly prohibit the sale of child pornography. Section 3 strengthens existing law, by explicitly prohibiting sale, and further, prohibits sale and distribution whether or not for commercial consideration.

Section 5

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

Section 6

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

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

Section 7

Under AS 47.10.081, before a juvenile court may "dispose of" (sentence) a delinquent minor, all parties must receive a predisposition report. This report is prepared by a DFYS worker. Section 12 amends AS 47.10.081(c) to provide that the report must be provided to all parties six (rather than 10) working days before the hearing.

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

Section 8

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

Section 9

Section 9 allows DFYS discretion in filing petitions when emergency custody has been assumed in situations that do not require continued protective custody or DFYS involvement. These instances constitute a small percentage of the emergency custody cases, and involve situations in which a primary or temporary caretaker has allowed the child to wander off and the child is discovered by parties who do not know the family. Under current law, in order to provide temporary shelter for the child until parents are located, DFYS must assume emergency custody. A request to dismiss is often filed with the petition in these situations, and the petition is filed only because the present statute appears to require it. This section eliminates the need for this unnecessary paperwork.

Section 10

Section 10 defines the term "sexual abuse" for purposes of civil child in need of aid (CINA) proceedings under AS 47. Although the term "sexual abuse" is now used in AS 47, it is not defined. The proposed definition would prevent constitutional challenges to the state's assumption of jurisdiction over children who are sexually abused by their parents.

To allow DFYS intervention in all cases of suspected sexual abuse, the definition is quite broad. It includes all sexual conduct which is also a crime. Other forms of inappropriate touching are also included, but conduct reasonably necessary for normal caretaker or medical responsibilities is excluded.

Section 11

AS 47.17.010 is a statement of legislative intent that protective services should be provided to child victims of abuse and neglect to prevent further harm to the child, enhance the general well-being of children, and preserve family life. Section 11 clarifies that family life should be preserved whenever it is in the best interests of the child to do so.

Section 12

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

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

Section 12 adds a new provision to the statutes: reports to law enforcement agencies. If a person listed in AS 47.17.020 (the general reporting statute) has reason to believe that a child has suffered harm as a result of injury, neglect, or exploitation by someone other than a family member or caretaker, the person must report that harm to a law enforcement officer (rather than DFYS). The law should require that all instances of abuse or neglect be reported to the authorities, not just intrafamily abuse. All children should be protected under the law, without regard to the identity of the perpetrator or the relationship to the child victim.

If the person reporting the abuse is not aware of the perpetrator's relationship to the victim, Section 12 allows a report to be made to either DFYS or a law enforcement officer.

Section 13

Section 13 requires film processors to report suspected cases of child pornography to law enforcement authorities for investigation. Several other states have such a requirement. On at least one occasion in the past, an Alaska man who photographed a young child engaged in sex acts with him was apprehended as a result of a similar reporting requirement in another state. A person who knowingly fails to make a report as required in this section is guilty of a class B misdemeanor under AS 47.17.068 (see sec. 21, below).

Section 14

The current scope of DFYS services does not extend beyond intra-family offenses. Section 14 clarifies that if, after a preliminary investigation, DFYS determines that the harm was not caused by a family member, the report shall be turned over to a local law enforcement officer.

Section 15 - 17

Sections 15, 16 and 17 amend the confidentiality, immunity, and privileged evidence provisions in existing AS 47.17 to make it clear that the applicability of these provisions applies to both civil and criminal proceedings. This clarification is necessary as a result of the appellate court's decision in State v. R.H. and Wetherhorn, 683 P.2d

269 (Alaska App. 1984). The Wetherhorn court held that the phrase "judicial proceeding," as used in AS 47.17.060 (dealing with evidence that is not privileged), refers only to civil proceedings.

Section 18

Section 18 contains a conforming amendment per the clarified definition of abuse in Section 21.

Section 19

This section contains a conforming amendment extending existing "B" misdemeanor penalties for failure to report suspected child abuse, as explained above regarding Section 13.

Section 20

Section 20 of this bill provides broad authority to the state to enjoin or limit persons who endanger children in the ways specified from having contact with children. While there may be common law authority for this view, statutory confirmation of this authority removes one issue from possible litigation in cases where the attorney general chooses to bring an action to enjoin or limit a person from contact with children. This addresses the problem of no regulation of day care providers who care for less than five children without burdening the public with regulation of all day care providers.

Section 21

This section clarifies the definition of abuse in AS 47.17 (reporting statute) in light of existing definitions of "neglect" and "child" in this section. Abuse as used in Title 47 would apply to all incidents of harm against children regardless of who the perpetrator is unless it is specifically stated that the perpetrator must be a person responsible for the child's welfare. This distinction is necessary, as DFYS's scope does not extend beyond intra-family abuses.

Section 22

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

Section 23

This section clarifies the definition of sexual exploitation in AS 47.17 (reporting statute).

Section 24

This section adds new definitions related to the expanded classes of persons who must report child abuse.

Sections 25 and 26

Section 25 amends AS 47.35.070(a) to bring this statute into conformity with the criminal code by making violations of child care licensing statutes and regulations a class B misdemeanor. Section 26 adds language that gives statutory authority to the Department of Health and Social Services to establish a system of civil enforcement (including the levy of up to \$200 daily in civil penalties) for violations of its licensing statutes and regulations.

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

Alaska State Legislature

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



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

Senate Committee on Health, Education and Social Services

LETTER OF INTENT

CS SB 243 (HESS)

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

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

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

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

HB 88, No. 3

Revision Date: _____

REQUEST Governor's
Bill/Resolution No.: Request
Title: An Act....child abuse and
neglect.
Sponsor: Governor
Requestor: _____
Date of Request: 1/16/85

FISCAL DETAIL
Agency Affected: Health and Social Services
Program Category Affected: _____
BRU, Program or Subprogram(s) Affected:
Social Services, Juvenile Custody

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUNDS						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	-0-					
PART-TIME	-0-					
TEMPORARY	-0-					

ANALYSIS: Attach a separate page if necessary

N/A

Prepared By: Michael L. Price MP & U.
Division: Family and Youth Services

Phone: 465-3170
Date: 1/17/85

Approved by Commissioner: [Signature]
Agency: Dept. of Health & Social Services

Date: 1/17/85

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: APR 1 1985

REQUEST

Bill/Resolution No.: SB 243
 Title: "An Act relating to the protection of children."
 Sponsor: Sen. HESS
 Requestor: Sen. HESS
 Date of Request: 3/25/85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Paul Conger
 Division: Administrative Services

Phone: 465-4338
 Date: 3/25/85

Approved by Commissioner: [Signature]
 Agency: Public Safety

Date: 3/25/85

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 243
 Title: An Act Relating to the
Protection of Children
 Sponsor: Senate HESS
 Requestor: Senate HESS
 Date of Request: 4/2/85

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS		200.0	200.0	200.0	200.0	200.0
TOTAL OPERATING		200.0	200.0	200.0	200.0	200.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		200.0	200.0	200.0	200.0	200.0
FEDERAL FUNDS						
OTHER						
TOTAL		200.0	200.0	200.0	200.0	200.0

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: Barbara Miklos, Executive Director

Phone: 465-4356

Division: Council on Domestic Violence and

Date: 4/2/85

Sexual Assault

Approved by Commissioner: RB.

Date: 4/2/85

Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

7/1/84

The Council on Domestic Violence and Sexual Assault funds twenty-three community based programs in FY85. Nineteen of these programs provide services for victims of child sexual assault and their families. Services that the programs provide related to child sexual assault include: crisis intervention on a 24-hour basis; information and community education about child sexual assault; referrals and reporting; advocacy for victims and non-offending parents with the criminal justice, medical and other systems; training for teachers and other community professionals; curricula in the schools and treatment.

Council funded programs have experienced increased requests for services in recent years due in large part to their efforts to educate the public. The Governor's budget for FY86 included an increase of \$575,000 for grants to community based programs. Two hundred thousand dollars of these funds can be directly attributed to increased services for child sexual assault.

Grants - Financially stabilize existing programs 75.0

Demands for child sexual assault services have increased dramatically in the past few years. Programs have not been provided with additional funding to provide these services and have simply met these requests by overburdening underpaid staff or volunteers. With no increases in funding for salaries for the past two years, programs will have to reduce services to make up for increased costs. This doesn't ~~not~~ begin to account for the increase in requests that will no doubt result from changes in legislation to increase reporting.

Grants - Provide adequate funding for underfunded programs 75.0

The Council has identified six programs that do not have sufficient funding to maintain the programs at the basic level of services required by the communities they serve. These programs provide or project to provide needed child sexual assault services in their areas. They are: Cordova Women's Resource Center; Unalaskan's Against Sexual Assault and Family Violence; Southwestern Alaska Council for the Prevention of Child Sexual Abuse; Tanana Chiefs Conference; Kenai/Soldotna Women's Resource and Crisis Center and Valley Women's Resource Center (Wasilla and Palmer).

Grants - Increased Rural Services Delivery 50.0

Victims of domestic violence and sexual assault and their families have fewer resources in rural areas than in larger communities. Police protection may be limited or nonexistent, and there are few trained health and social services professionals. Children who are victims of sexual assault do not have the necessary resources to help them deal with the trauma of the assault, legal process and after effects. Yet most people living in rural areas do not have access to domestic violence and sexual assault services.

The Council on Domestic Violence and Sexual Assault funded two new rural programs for FY85 and provided additional funds to existing programs to enhance rural services. However, it is apparent that these minimal increases will not begin to provide services for the 1/3 of the population in Alaska who do not have access to domestic violence/sexual assault programs. The interior of Alaska (Doyon Region), in particular, is underserved. Existing domestic violence/sexual assault programs provide education/prevention and crisis services to rural areas. They have accomplished a great deal, with insufficient funding, to serve the rural areas. In addition, the following communities have applied to the Council to begin programs that specifically address the needs of child sexual assault victims: Naknek, Hooper Bay and RuralCAP.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

CSSB 243 (HESS)

"An Act relating to the protection of children; and amending Rules 504 and 505, Alaska Rules of Evidence."

The Council on Domestic Violence and Sexual Assault (Council) is commenting upon those sections of CSSB243 (HESS) that directly affect the persons or programs the Council serves. The Council feels that other agencies and individuals have more information about the needs for sections not commented upon.

Sections 3 and 4. The Council supports the clarification and strengthening of AS 11.61.125(a) concerning child pornography. It is known that a large percentage of perpetrators of child sexual assault receive and utilize child pornography, and it is obvious that children who are presented in pornographic materials are victimized. Therefore, the Council feels that society should take the necessary steps to inhibit distribution of child pornography.

Section 5. The Council supports extending the statute of limitations in child prostitution cases and clarifying the extension of the statute of limitations in child sexual assault cases. As in child sexual assault, a child induced or forced into prostitution might be dependent upon a perpetrator or not have the information or wherewithal necessary to report the crime until he/she is older and more self confident. These crimes should receive the scrutiny of the criminal justice system even though they weren't reported immediately.

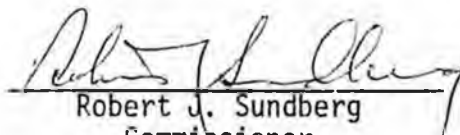
Section 6. The Council supports including child sexual assault cases in the rape shield law. A victim's past sexual conduct should not be admissible in court. This is as important for child victims as adult victims. Child sexual assault often makes victims more vulnerable to repeated assaults by adults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

Section 12. The Council supports expanding and clarifying the list of people required to report child abuse. It is the responsibility of all of us, particularly professionals and workers listed in this amendment to AS 47.17, to protect children.

The Council also supports adding section 12(c) to Alaska statutes so children who have been abused by an individual not responsible for the child's welfare can be guaranteed protection under the law. Under existing statute, reporting and protection is mandated only in cases where the abuse or neglect is caused by a person who is responsible for the child's welfare.

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

Section 13. The Council supports this section to require reporting of suspected child pronography for the reasons explained for Sections 3 and 4.


Robert J. Sundberg
Commissioner
Department of Public Safety

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 243 (HESS)
 Title: "An Act relating to the protection of children"
 Sponsor: Senate HESS
 Requestor: Senate Judiciary
 Date of Request: 4/15/85

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		200.0	200.0	200.0	200.0	200.0
800 MISCELLANEOUS						
TOTAL OPERATING		200.0	200.0	200.0	200.0	200.0

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

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

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		200.0	200.0	200.0	200.0	200.0
FEDERAL FUNDS						
OTHER						
TOTAL		200.0	200.0	200.0	200.0	200.0

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

See Attached.

Prepared By: Barbara Miklos, Executive Director

Phone: 465-4356

Division: Council on Domestic Violence

Date: 4/15/85

and Sexual Assault

Approved by Commissioner: *[Signature]*

Date: 4/16/85

Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):

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

7/1/84

The Council on Domestic Violence and Sexual Assault funds twenty-three community based programs in FY85. Nineteen of these programs provide services for victims of child sexual assault and their families. Services that the programs provide related to child sexual assault include: crisis intervention on a 24-hour basis; information and community education about child sexual assault; referrals and reporting; advocacy for victims and non-offending parents with the criminal justice, medical and other systems; training for teachers and other community professionals; curricula in the schools and treatment.

Council funded programs have experienced increased requests for services in recent years due in large part to their efforts to educate the public. The Governor's budget for FY86 included an increase of \$575,000 for grants to community based programs. Two hundred thousand dollars of these funds can be directly attributed to increased services for child sexual assault.

Grants - Financially stabilize existing programs 75.0

Demands for child sexual assault services have increased dramatically in the past few years. Programs have not been provided with additional funding to provide these services and have simply met these requests by overburdening underpaid staff or volunteers. With no increases in funding for salaries for the past two years, programs will have to reduce services to make up for increased costs. This doesn't not begin to account for the increase in requests that will no doubt result from changes in legislation to increase reporting.

Grants - Provide adequate funding for underfunded programs 75.0

The Council has identified six programs that do not have sufficient funding to maintain the programs at the basic level of services required by the communities they serve. These programs provide or project to provide needed child sexual assault services in their areas. They are: Cordova Women's Resource Center; Unalaskan's Against Sexual Assault and Family Violence; Southwestern Alaska Council for the Prevention of Child Sexual Abuse; Tanana Chiefs Conference; Kenai/Soldotna Women's Resource and Crisis Center and Valley Women's Resource Center (Wasilla and Palmer).

Grants - Increased Rural Services Delivery 50.0

Victims of domestic violence and sexual assault and their families have fewer resources in rural areas than in larger communities. Police protection may be limited or nonexistent, and there are few trained health and social services professionals. Children who are victims of sexual assault do not have the necessary resources to help them deal with the trauma of the assault, legal process and after effects. Yet most people living in rural areas do not have access to domestic violence and sexual assault services.

The Council on Domestic Violence and Sexual Assault funded two new rural programs for FY85 and provided additional funds to existing programs to enhance rural services. However, it is apparent that these minimal increases will not begin to provide services for the 1/3 of the population in Alaska who do not have access to domestic violence/sexual assault programs. The interior of Alaska (Doyon Region), in particular, is underserved. Existing domestic violence/sexual assault programs provide education/prevention and crisis services to rural areas. They have accomplished a great deal, with insufficient funding, to serve the rural areas. In addition, the following communities have applied to the Council to begin programs that specifically address the needs of child sexual assault victims: Naknek, Hooper Bay and RuralCAP.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____ Page 1 of _____

<p>REQUEST Bill/Resolution No.: <u>HB 98</u> Title: <u>An Act relating to the protection of children.</u> Sponsor: _____ Requestor: <u>Rules by Governor</u> Date of Request: <u>January 18, 1995</u></p>	<p>FISCAL DETAIL Agency Affected: <u>Administration</u> Program Category Affected: <u>Due Process</u> BRU, Program or Subprogram(s) Affected: _____ Office of Public Advocacy</p>
---	--

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0	155.1	164.4	174.3	184.8	195.8
200 TRAVEL	0	15.0	15.9	15.9	17.9	19.0
300 CONTRACTUAL	0	100.0	106.0	112.4	119.1	125.2
400 SUPPLIES	0	2.0	2.1	2.2	2.3	2.4
500 EQUIPMENT	0	24.0	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	296.1	288.4	305.9	324.1	343.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	0	296.1	288.4	305.9	324.1	343.5
FEDERAL FUNDS						
OTHER						
TOTAL	0	296.1	288.4	305.9	324.1	343.5

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	0	4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Brant McGee Phone: 274-1684
 Division: Public Advocate Date: January 25, 1995

Approved by Commissioner: Lisa Rudd Date: 1/30/95
 Agency: Department of Administration

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

HB 88
Fiscal Note Analysis
Prepared by Division of Public Advocacy
Department of Administration
January 25, 1985

Governor Sheffield has introduced this legislation as part of his child protection package. One purpose of the bill is to increase the number of child sexual abuse investigations and prosecutions. The Governor's operating budget requests new positions in the Department of Law and the Department of Health and Social Services to accomplish this goal.

The addition of new staff in the two departments that generate legal action in child abuse cases will necessitate the creation of four new positions in the Office of Public Advocacy. These positions and the additional contractual funds requested to assure the representation of the nonoffending parent in children's proceedings are the minimum necessary to guarantee fulfillment of the Office's function as children's guardians ad litem.

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

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

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

Fiscal Analysis

Second Judicial District

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

Third Judicial District

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

(continued)

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

Fourth Judicial District

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/13/85

REQUEST

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

FISCAL DETAIL

Agency Affected: Alaska Court System
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		123.9	131.3	139.2	147.6	156.5
200 TRAVEL		22.0	23.3	24.7	26.2	27.8
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		145.9	154.6	163.9	173.8	184.3

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

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

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		145.9	154.6	163.9	173.8	184.3
FEDERAL FUNDS						
OTHER						
TOTAL		145.9	154.6	163.9	173.8	184.3

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		1	1	1	1	1
PART-TIME		3	3	3	3	3
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert G. Fisher, Fiscal Officer Phone: 264-0561
Division: Alaska Court System Date: 2/13/85

Approved by Commissioner: *L. Cole for A. Snowden* Date: 2/13/85
Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

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

12/1/83

ALASKA COURT SYSTEM

NB 88 ~ CHILD PROTECTION
FISCAL IMPACT

PERSONAL SERVICES:

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

Total Personal Services			\$123,904
TRAVEL			22,000

TOTAL			\$145,904
			=====

Subsequent fiscal years adjusted to reflect six percent inflation.

ALASKA COURT SYSTEM

HB 88 - CHILD PROTECTION
FISCAL IMPACT

Judges statewide have indicated that this legislation will require additional judicial resources. It is the administrative director's assessment that assignment of additional judges on a pro tempore basis would provide adequate judicial coverage while minimizing the cost to the state. The original submission of this fiscal note overlooked the need for judges to travel to other superior court locations to hear these cases. Funds for judicial travel have been included in the revised fiscal note.



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

April 10, 1985

Senator Pat Rodey
Chair, Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

I am writing with regard to CSSB 243 (HESS), relating to the protection of children, which is now before the judiciary committee. My comments are specifically directed to proposed section 12 (page 6), which includes "court investigators" within the group of persons required to report abuse or neglect of a child.

The court system is opposed to this provision. First, the meaning of the term "court investigators" is unclear, since there is no such position title within the court system (although there are custody investigator positions in Anchorage and Fairbanks). Second, court personnel should not be held to a higher duty than ordinary citizens in reporting incidents of this nature, especially given the court's adjudicatory role. This requirement could create the appearance that the court is taking sides in any legal disputes which may later arise. The court system believes its role should be limited to adjudication of cases, and should not be expanded to include a nonadjudicatory reporting function.

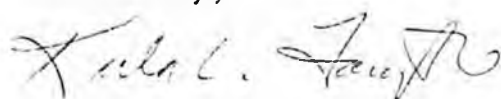
This legislation is complemented by CSSB 28, which provides that a person employed by the state who is required to report abuse or neglect shall receive training. Departments are required to develop curriculum for employees including training about laws relating to child abuse and neglect, techniques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

If both CSSB 28 and CSHB 88 are enacted, court system personnel would be required to report abuse, and the court system would be required to provide training. The court system would not independently develop training materials, but instead would

rely upon materials developed by the executive branch. However, the court system would still have to reproduce and disseminate these materials, as well as provide some minimal training, in the form of one visit by administrative staff to each judicial district to train supervisors. The total cost of this limited training program is estimated at \$4,000. A copy of the court system's fiscal note is attached.

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

Sincerely,



Karla L. Forsythe
General Counsel

KLF:smh

cc: Senator Bettye Fahrenkamp
Chair, Senate HESS Committee

Senator Jan Faiks
Co-Chair, Senate Finance Committee

Senator John Sackett
Co-Chair, Senate Finance Committee