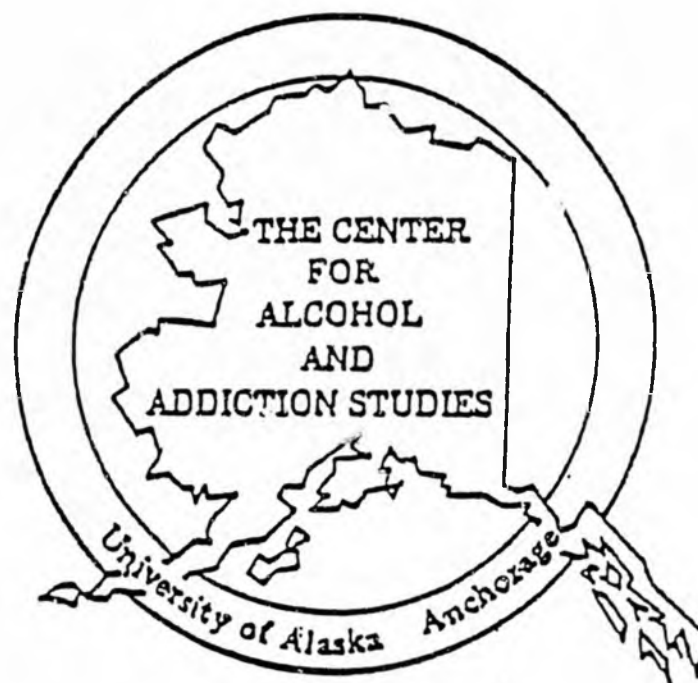


ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
5870 HOUSE JUDICIARY

279

DRUG-TAKING BEHAVIOR AMONG ALASAKAN YOUTH - 1988:  
A FOLLOW-UP STUDY



Bernard Segal, Ph.D.  
Director, Center for Alcohol and Addiction Studies  
University of Alaska Anchorage

November, 1988

Funded in part by a grant from the State Office of Alcoholism and Drug Abuse, Department of Health and Social Services, Juneau, Alaska

Figure 4-4  
Lifetime Experience with One or more Drugs  
Total Sample  
1988  
(n=4129)

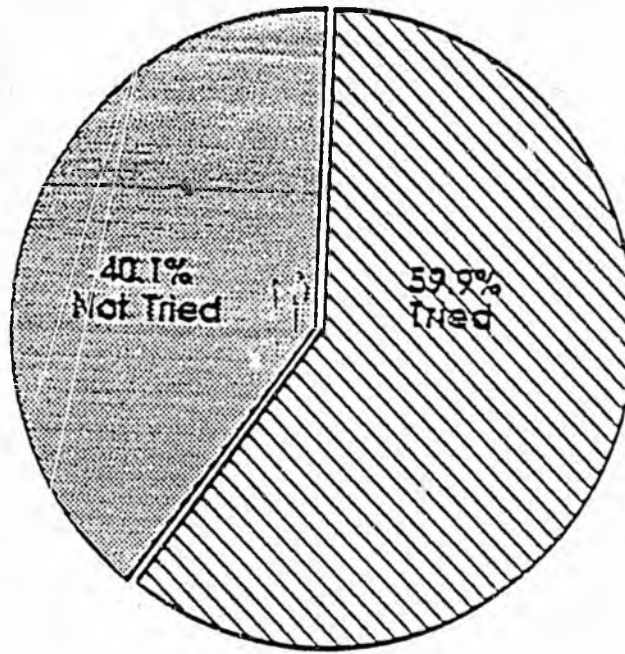
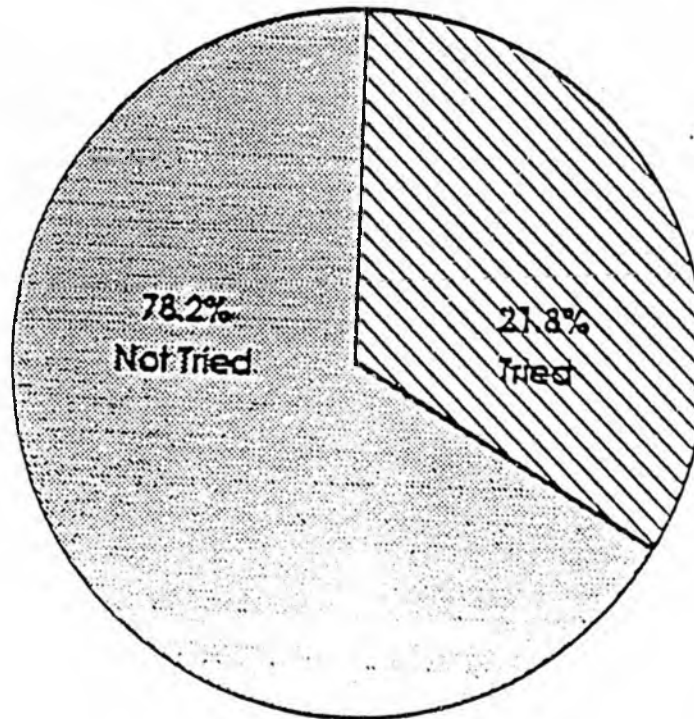


Figure 4-5  
Past Year Experience with One or More Drugs  
1988



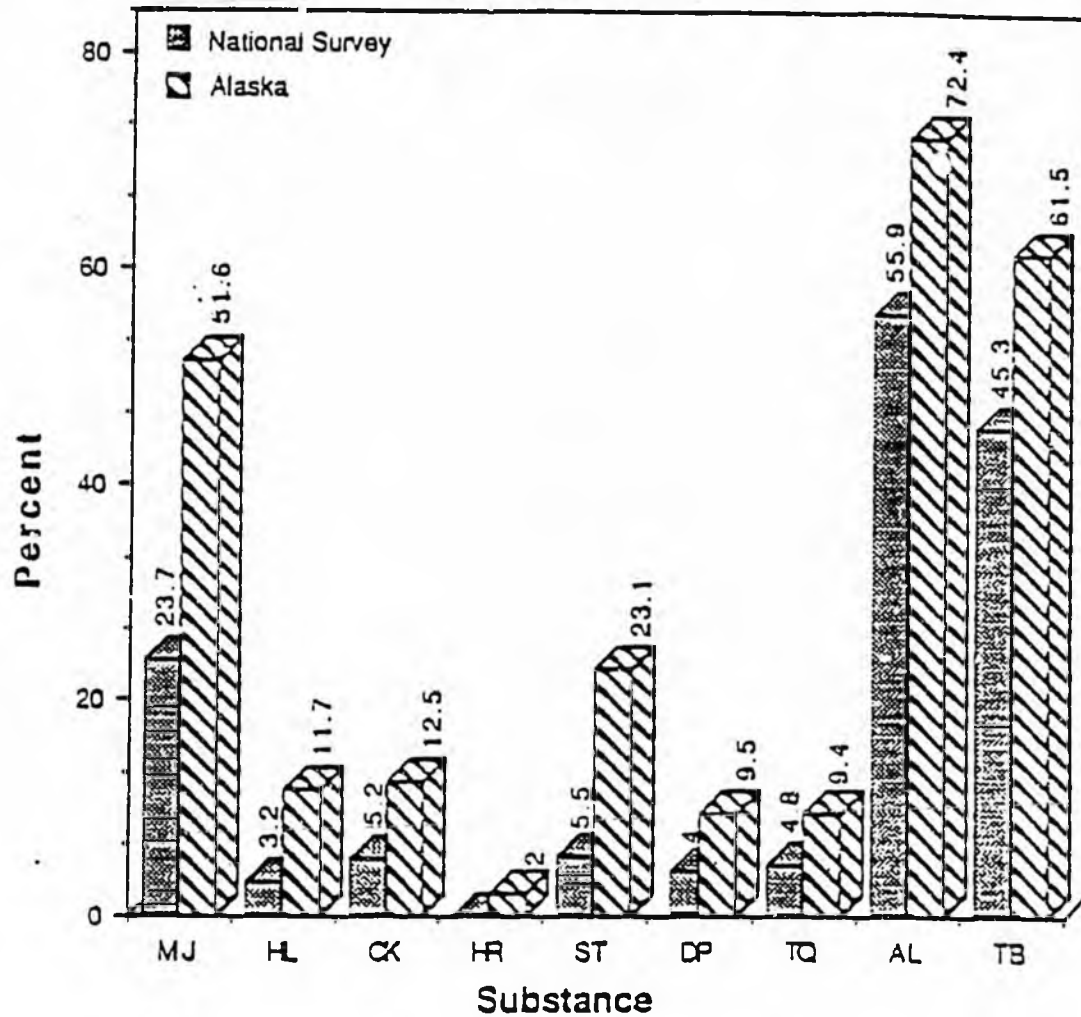
### *C. Comparisons with Other Surveys*

#### (1) Comparison of Alaska 12-17 Year-Olds with the 1985 National Survey on Drug Abuse: Lifetime Prevalence

The 1985 National Survey on Drug Abuse (NIDA, 1986) identifies lifetime prevalence of drug use among 12-17 year-olds in the lower-48 states. A comparison of the Alaskan data for the same age group (Figure 4-45) shows that Alaskan 12-17 year-olds exceeded the national levels for every substance. Marijuana, for example, was greater than twice the national level, and stimulants were more than three times the national rate.

The question arises of why the Alaskan data is so much higher than the prevalence levels cited in the national survey. One possible answer involves differences in methodology. The Alaska survey utilized a procedure which called for anonymous responses to questionnaires. The national study involved direct interviews. It is possible that direct interviews, particularly when conducted in the interviewee's home, elicited more false negatives than responding anonymously to questionnaires in school, thereby resulting in lower prevalence rates. An alternative explanation is that substance use in Alaska is higher than in the lower-48 states.

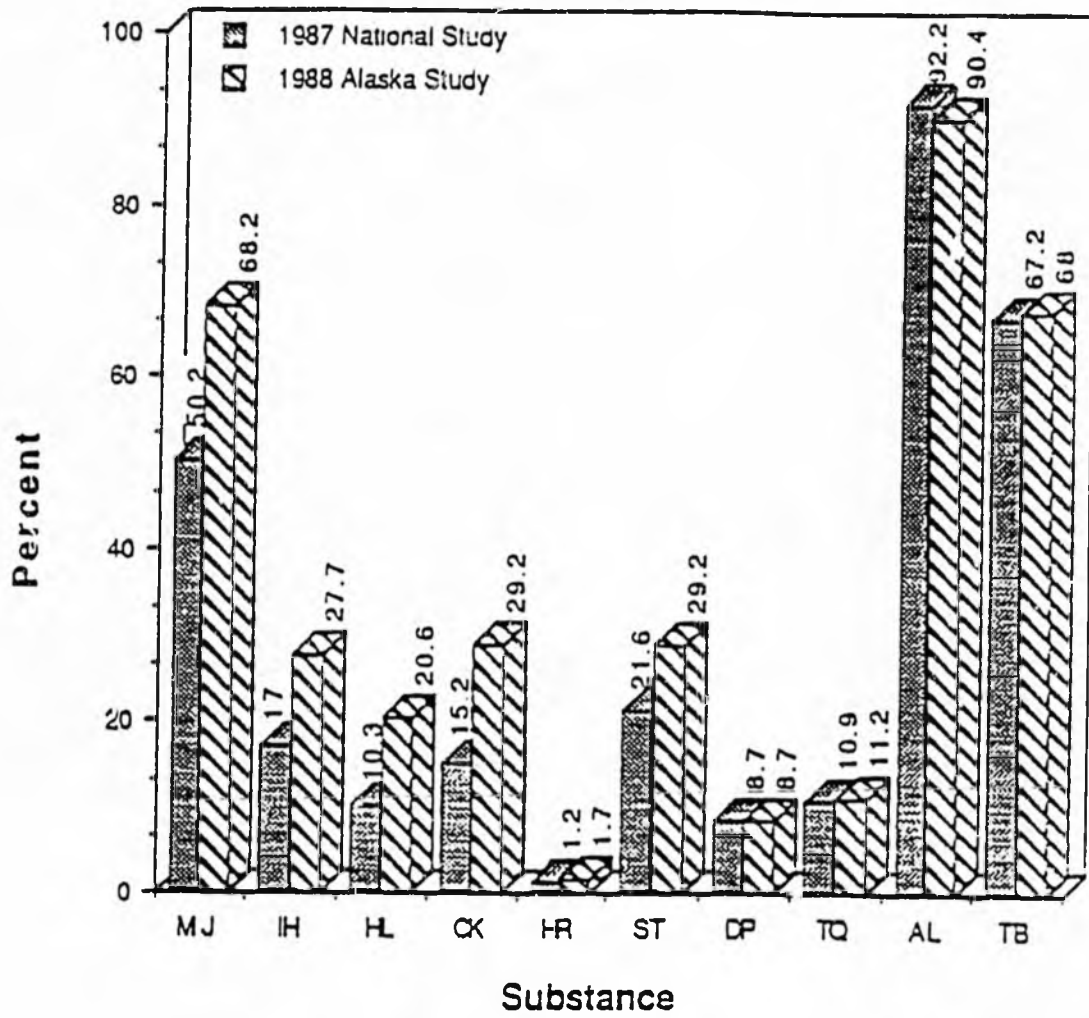
Figure 4-45  
 Comparison of Alaska With  
 the 1985 National Household Survey  
 for 12-17 Year Olds  
 Lifetime Experience



(2) Comparison of Alaska Seniors with the 1987 National High School Senior Survey: Lifetime Prevalence.

Table 4-46 provides a comparison of the findings for Alaska high school seniors with the findings from the 1987 National High School Senior Survey (Johnston, 1988). As may be observed, the Alaskan data is either generally comparable for some substances, or exceeds national prevalence levels. Alaskan prevalence rates for marijuana, inhalants, hallucinogens, cocaine, and stimulants tended to be higher than the national figures; experiences with heroin, depressants, tranquilizers, alcohol, and tobacco were fairly comparable.

Figure 4-46  
 Comparison of Alaskan Seniors with  
 the 1987 National High School Senior Study  
 Lifetime Prevalence



Current Law Compared to Provisions of SB 340 - Drug Free School Zones

Action	Current Law: On School Grounds By An Adult	Current Law: Off School Grounds By Any Person	CS SB 340(Fin) am Within 1000 feet of a School By Any Person
Simple Possession of the Following Controlled Substances:			
IA, IIA	B Felony	C Felony	B Felony
Large Amounts of IIIA, IVA, VA	C Felony	C Felony	C Felony
Small Amounts of IIIA, IVA, VA	C Felony	A Misdemeanor	C Felony
VIA	C Felony	16 oz or more: C Felony 8 oz or more: A Misdemeanor 4 oz or more at home: B Misdemeanor 1 oz or more in public: B Misdemeanor Any amount in a propelled vehicle: B Misdemeanor Less than 1 oz in public: Violation Less than 4 oz at home: Legal	C Felony C Felony C Felony C Felony C Felony C Felony Legal

Current Law Compared to Provisions of SB 340 - Drug Free School Zones

Action	Current Law: On School Grounds By An Adult	Current Law: Off School Grounds By Any Person	CS SB 340(Fin) am Within 1000 feet of a School By Any Person
Delivery or Possession With the Intent to Deliver the Following Controlled Substances:			
IA	Current law enhances possession violations on school grounds, not delivery violations (see other chart)	A Felony	A Felony
IIA, IIIA		B Felony	A Felony
IVA, VA		C Felony	B Felony
VIA 1 oz or more		C Felony	B Felony
VIA 1/2 oz or more		A Misdemeanor	C Felony
VIA 1/2 oz or less for remuneration		A Misdemeanor	C Felony
VIA 1/2 oz or less		Violation	C Felony

- Controlled Substance Schedules:
- I Includes heroin, opium
  - II Includes cocaine, LSD
  - III Includes hashish
  - IV Includes some barbituates
  - V Includes Codeine
  - VI Marijuana

"Use It and Lose It" Law  
AS 28.15.185

Current Law

Minor convicted of a drug or alcohol offense loses his or her driver's license for:

First offense: 90 days

Subsequent offense: 1 year

CSSB 340 (Fin) am

Minor convicted of a drug or alcohol offense loses his or her driver's license for one year or age 18, whichever is longer.

# Alaska State Legislature



## Senate Judiciary Committee

### MEMORANDUM

February 27, 1990

TO: Representative Johnny Ellis, Chairman  
House HESS Committee

FROM: Senator Jan Faiks, Chairman  
Senate Judiciary Committee

SUBJECT: SB 340 "An Act relating to the delivery and possession of controlled substances and imitation controlled substances; and requiring installation of signs in the vicinity of schools declaring the areas to be 'drug-free school zones'; and providing for an effective date."

CSSB 340 (Rules) am has been referred to the House HESS Committee for consideration. This bill creates areas around public and private preschools, elementary and secondary schools in which penalties for the sale and possession of drugs will be enhanced.

Many states, including Alaska, have laws on the books that increase the penalty for selling drugs on school grounds. The purpose is to protect young people from exposure to drugs at a time in their lives when they are least able to appreciate the risks or resist peer pressure. The problem with these laws is that they invariably apply only to the school grounds, and not to the area surrounding the school. It is essential that a zone around each school be drug free, not just the school itself. Otherwise, drug dealers can operate freely across the street from the schoolyard.

In 1987, New Jersey became the first state to adopt a "drug-free school zone" law. This law raises the penalties for drug sales and possession not only on the school grounds, but within 1000 feet of a school as well. CSSB 340 (Rules) am is modeled on this New Jersey law. Since 1987, approximately 35 other states have adopted some version of drug-free school zone legislation. President Bush has made the drug-free

school zone concept part of his National Drug Control Strategy, and the Chiefs of Police National Drug Task Force has called it "perhaps the most effective incremental system-wide solution to the drug problem."

A sectional analysis of CSSB 340 (Rules) am is attached. You will note the following major differences between current law and this bill:

Current law makes it a more serious offense for an adult to possess drugs on school grounds. The specific penalty depends on the type of drug that is possessed. For example, an adult who possesses a small amount of cocaine off school grounds is guilty of a class C felony (up to five years in jail/\$50,000 fine), whereas possession on school grounds would be a class B felony (up to 10 years in jail/\$50,000 fine). Current law does not apply to the area surrounding a school, or to conduct on a school bus.

CSSB 340 (Rules) am changes this in several major ways. First, it makes it a more serious offense for any person (adult or minor) to deliver or possess with the intent to deliver controlled substances within 1000 feet of a school or on a school bus. For example, a person who delivered cocaine more than 1000 feet from a school would be guilty of a class B felony; if he delivered it within 1000 feet of a school or on a school bus, he would be guilty of a class A felony (up to 20 years in jail/\$50,000 fine). Minors charged with dealing drugs on school grounds would be adjudicated under the juvenile justice system, as they are with current drug law violations. However, minors would be subject to a mandatory sentence of 100 hours of community service..

Second, the bill provides that any person (adult or minor) who possesses drugs for personal use (i.e. the casual user as opposed to a dealer) is committing a more serious crime if the possession takes place within 1000 feet of a school or on a school bus. For example, a person who possessed cocaine more than 1000 feet from a school would be guilty of a class C felony; if he possessed it within 1000 feet of a school or on a school bus, he would be guilty of a class B felony. Again, minors would be adjudicated under the juvenile justice system, but subject to a mandatory sentence of 100 hours of community service.

In order to advise persons of these newly created drug-free school zones, the bill requires the state and municipalities to post street signs around schools, declaring the area to be a "Drug-Free School Zone." Five other states require signs to be posted: New Jersey, Maryland, Texas, Florida, and Pennsylvania.

Additionally, the Department of Public Safety is required to issue "Student's Rights" cards to every student in the state, based upon the New Jersey student right's card; this card expresses a student's right to attend school in a drug-free environment. It is also required to prepare and distribute to each household a pamphlet summarizing the state's drug laws. Copies of New Jersey's card and pamphlet are attached.

One final change is made to the "use it and lose it" law passed by the Legislature several years ago. This law currently provides that a minor who is adjudicated for misconduct involving a controlled substance or for possession or consumption of an alcoholic beverage loses his or her driver's license for 90 days for a first offense, and for one year for a subsequent offense. CSSB 340 (Rules) am amends this statute to provide that the minor loses the driver's license for one year or until his or her 18th birthday, whichever is longer.

While supply eradication and interdiction efforts are necessary, the most effective long-term solution to the drug problem is demand reduction. It is difficult to reduce demand among our young people when they are continually assailed by drug use and trafficking in and around their schools. Reduction of these activities will enable us to create safer, more productive learning environments in which values opposing drug use can be fostered. I urge the HESS Committee to schedule this bill at its earliest convenience.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 20, 1990

SUBJECT: CSSB 340 (Finance), sectional analysis

TO: Senator Jan Faiks

FROM: Jack Chenoweth  
Legislative Counsel

The legislation makes conviction for possession, delivery, and use of controlled substances in schools, on or near school grounds, and on school buses as felonies, makes more stringent the penalties involving conviction for possession and consumption of alcohol by minors, and adds a number of related responsibilities to various state boards and agencies.

Bill section 1 defines delivery and possession with intent to deliver a schedule IIA and schedule IIIA controlled substance on or within 1000 feet of school grounds or on a school bus as misconduct involving a controlled substance in the second degree, a class A felony.

Bill section 3 defines each of the following occurring on or within 1000 feet of school grounds or on a school bus as misconduct involving a controlled substance in the third degree, a class B felony: (1) delivery of a schedule IVA or VA controlled substance, (2) delivery of one ounce or more of a schedule VIA controlled substance, (3) possession with intent to deliver a schedule IVA or VA controlled substance, (4) possession of one ounce or more of a schedule VIA controlled substance with intent to deliver, (5) possession of any amount of a schedule IA or IIA controlled substance.

Bill section 5 defines unlawful possession of a schedule IIIA, IVA, VA, or VIA controlled substance on or within 1000 feet of school grounds or on a school bus as misconduct involving a controlled substance in the fourth degree, a class C felony.

Bill sections 2, 4, and 6 establish affirmative defenses applicable in the event of prosecutions for each of the preceding. The affirmative defenses establish exceptions for

FINANCE  
2/13/90  
ADOPTED  
CFC

Senate Letter of Intent

CSSB 340 (Finance)

It is the intent of the legislature that the Department of Public Safety annually coordinate the printing of a "Student's Rights" card designed and written by the Department of Education. The Department of Public Safety shall make arrangements to distribute the card to every child enrolled in a public school, and to every child enrolled in a private school of which the Department of Education has a record under AS 14.45. The legislature intends that the Commissioner of Education use the "Student's Rights" card distributed by the State of New Jersey as a guide in designing the card, and that the card include information that summarizes the Alaska statutes applicable to the sale and possession of controlled substances on or near school grounds, and on school buses.

It is the further intent of the legislature that the Department of Public Safety annually coordinate the preparation and mailing of an information pamphlet to all households in the state. The pamphlet should be written in easily understandable language, should be designed to educate the public about controlled substances, and should summarize information relating to the criminal penalties applicable to the sale and possession of controlled substances on or near school grounds, and on school buses.

The legislature does not intend for the Department of Public Safety to pay for the cost of printing or distributing the "Student's Rights" card or information pamphlet. Instead, the legislature intends for the Commissioner of Public Safety to develop a process for soliciting in-kind donations of services and materials from private sector businesses and individuals, and to allow members of the private sector to print and distribute the "Student's Rights" cards and information pamphlets. The names of the donors shall be printed on each card and pamphlet.

*adopted by Senate 2/22/90.*

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465-3800

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Bill section 3 defines each of the following occurring on or within 1000 feet of school grounds or on a school bus as misconduct involving a controlled substance in the third degree, a class B felony: (1) delivery of a schedule IVA or VA controlled substance, (2) delivery of one ounce or more of a schedule VIA controlled substance, (3) possession with intent to deliver a schedule IVA or VA controlled substance, (4) possession of one ounce or more of a schedule VIA controlled substance with intent to deliver, (5) possession of any amount of a schedule IA or IIA controlled substance.

Bill section 5 defines unlawful possession of a schedule IIIA, IVA, VA, or VIA controlled substance on or within 1000 feet of school grounds or on a school bus as misconduct involving a controlled substance in the fourth degree, a class C felony.

Bill sections 2, 4, and 6 establish affirmative defenses applicable in the event of prosecutions for each of the preceding. The affirmative defenses establish exceptions for

conduct occurring within private residences situated within 1000 feet of school grounds in which, generally, a minor was not present.

Bill section 7 offers definitions for the terms "school bus" and "school grounds" used in the preceding sections.

Bill section 8 directs the state board of education to prepare and issue a "student's bill of rights," to include information about state laws applicable to possession and sale of controlled substances in schools, on school grounds, and on school buses.

Bill section 9 directs the commissioner of public safety to prepare and annually issue a student's rights card, and to develop and mail to each household an information pamphlet relating to controlled substances, with emphasis on the penalties applicable to possession and sale of substances in schools, on school grounds, and on school buses.

Bill section 10 requires the Department of Transportation and Public Facilities to install "drug-free school zone" signs in the vicinity of all schools in which it has placed a sign identifying the location of a school.

Bill section 11 directs municipalities to place the same kind of signs in the vicinity of schools on the same basis.

Bill section 12 compels the court to revoke the driver's license of a minor convicted or adjudicated of driving while intoxicated for one year or until the minor reaches the age of 18, whichever is longer.

Bill section 13 mandates a court to compel a minor who is convicted or adjudicated of a violation involving possession, delivery, or use of a controlled substance in a school, on school grounds, or on a school bus to perform a minimum of 100 hours of community service.

Bill section 14 makes the sign placement provisions of bill sections 10 and 11 effective August 16, 1990.

Bill section 15 suggests use of the New Jersey student's rights card as a model for similar cards to be prepared and issued under the amendment made by bill section 9.

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2/13/90  
ADOPTED  
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Senate Letter of Intent

CSSB 340 (Finance)

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*adopted by Senate 2/22/90.*

CHIEFS OF POLICE  
NATIONAL DRUG TASK FORCE



1110 Vermont Avenue, N.W. • Suite LL10  
Washington, D.C. 20005  
(202) 296-0900  
FAX 296-1734

President George Bush  
Honorary Chairman

Hon. Bill Bradley  
U.S. Senate (NJ)  
Co-Chairman

October 20, 1989

Hon. Orrin Hatch  
U.S. Senate (UT)  
Co-Chairman

Kevin O' Leary  
Chief of Police  
4501 S. Bragaw St.  
Anchorage, AK 99507

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Dear Mr. O' Leary:

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Drug Free America

William B. Moore  
Bill G. Rhoads  
Founders

As a prominent leader in your state, you must be extremely concerned with the havoc created by drugs. Illegal drugs corrode our society, undermine law enforcement, corrupt officials, spawn rampant crime, spread death and murder, and take their final toll in wrecked lives. Through increased supply eradication and interdiction efforts law enforcement authorities have increased criminal arrests and narcotics seizures. Yet we continue to witness a pervasive drug problem. We are convinced that the only long-term solution to the drug problem will occur when we successfully reduce the demand for drugs.

Of all drug demand reduction alternatives, the drug-free school zone initiative is perhaps the most effective incremental system-wide solution to the drug problem. **Drug-Free School Zones** are designed to reduce the demand for drugs by concentrating enforcement and ancillary drug control efforts within geographic zones (generally 1000 ft.) around schools. By concentrating law enforcement efforts, increasing penalties for certain criminal activities, and linking these efforts with comprehensive drug prevention education and alternative demand reduction activities, we believe that these measures will significantly reduce drug use and trafficking in and around schools. Additionally, these zones help foster healthier and more productive teaching and learning environments wherein positive peer pressure to resist drugs can be promoted.

Randy Anderson  
Director

Severin L. Sorensen  
Deputy Director

On July 1, 1987, New Jersey enacted the nation's first model drug-free school zone. Last year, New Jersey reported over 6,500 distribution arrests within drug-free school zones. During this same year 9,600 drivers' licenses were revoked or postponed and their courts collected over six million dollars in cash penalties from drug offenders.

New Jersey's commitment to drug-free schools is beginning to have an impact on their states criminal drug distribution and trafficking patterns. In at least one case, a drug suspect was overheard on a wiretap to explain to a coconspirator that a drug transaction could not be completed in the given location because it was next to a school. So too, New Jersey reports a number of examples of undercover drug buys in which the targets carefully select their point of sale in locations out of these school safe havens. These evidences support the original policy aim of protecting children through drug-free school zones.

In light of New Jersey's success, thirty-five other states have since passed similar drug-free school zone legislation. Further, North Carolina, Ohio, and Texas have proposed or pending legislation to create drug-free school zones. Delaware, Oregon, and West Virginia are aggressively enforcing similar federal legislation, and the District of Columbia is initiating a special pilot program. See attachment for complete listing of statewide drug-free school zones.

In January 1989, concerned leaders from the nation's education, prevention, criminal justice, and law enforcement communities organized the **National Coalition for Drug-Free School Zones**. Through the Coalition, the member organizations pursue two primary goals: (1) the introduction, promotion, and passage of state-sponsored drug-free school zone legislation nationwide, and (2) the development of means whereby to implement effective drug-free school zones, complete with training materials, drug prevention education, and other demand reduction programming. The Coalition includes:

- National School Boards Association
- National Association of Secondary School Principals
- National Association of Elementary School Principals
- National School Safety Center
- Council of State Governments
- National Association of State Alcohol and Drug Abuse Directors
- National Council of Juvenile and Family Court Judges
- National Association of Chiefs of Police

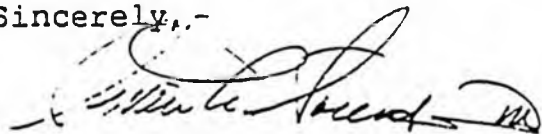
As a member of the Coalition, I wholeheartedly encourage you to support effective implementation of drug-free school zones in your

state. If your state already has legislation, seek to strengthen and implement it. If your state does not enforce drug-free school zones motion to propose it. This initiative is too important and promising to be left unexamined. We encourage you as a leader to organize a state coalition for drug-free school zones, if you have not already done so. Through individual state coalitions local communities can be mobilized into a formidable assault on drugs. Only when these zones reach citizens at grass roots level will they become an effective deterrent to drugs and crime.

The National Coalition for Drug-Free School Zones seeks to support your efforts. The Coalition has gathered copies of states enacted legislation and have prepared other materials and recommendations which may be of assistance to you in this effort. We are in the process of creating an implementation manual to assist local communities establish effective drug-free school zones. Furthermore, we are preparing a quarterly Drug-Free School Zone newsletter that will identify promising strategies, prevention innovations, and legislation nationwide. The first issue of this newsletter will be distributed in January 1990.

Again, we thank you for your continued support in this very important effort to make America drug-free. This can only be done with a united force of state leaders and citizens who are willing to take the necessary steps to accomplish the goal. Your help has been and will continue to be invaluable in our efforts to make drug-free school zones a reality nationwide. We, at the National Coalition For Drug-Free School Zones, look forward to working with you and assisting you in any way we can.

Sincerely,-



Severin Sorensen, Director,  
National Coalition For Drug-Free School Zones

**Coalition For Drug-Free School Zones**  
**Survey of State Drug Laws, 1989**  
 Survey Data

State	Drug-Free School Zone	Zone Perimeter	Avail. Control Law	Prison Capacity (#)	Prison Occupancy (#)	Prison Fill (%)
Alabama	Yes	1 mile	Yes A	10,126	10,150	100
Alaska	Yes	Grounds	None	2,428	2,448	100
Arizona	Yes	300 ft	None	5,000	5,420	108
Arkansas	Yes		None	5,400	6,000	111
California	Yes	1000 ft	Yes A	96,129	140,791	146
Colorado	No		Yes A	5,400	6,500	120
Connecticut	Yes	1000 ft	None	7,200	7,400	103
Dist of C.	Yes-Pilot	1000 ft	None	6,730	7,300	108
Delaware	Federal	1000 ft	None	3,194	3,015	94
Florida	Yes	1000 ft	None	41,541	37,121	89
Georgia	No		Yes A,T	17,500	19,500	111
Hawaii	Yes	750 ft	Yes A	2,800	3,000	107
Idaho	No		None	1,160	1,444	124
Illinois	No		Yes A	16,684	21,775	130
Indiana	No		None	11,500	13,000	113
Iowa	Yes	1000 ft	None	2,975	3,100	104
Kansas	No		Yes T	5,767	5,574	97
Kentucky	Yes	1000 yd	Yes T	5,998	6,855	114
Louisiana	Yes	1000 ft	None	12,425	16,284	131
Maine	Yes	1000 ft	None	934	1,315	141
Massachusetts	Yes	1000 ft	None	6,200	11,000	177
Maryland	Yes	1000 ft	Yes A,T	10,996	13,961	127
Michigan	No		None	22,563	26,441	117
Minnesota	Yes	1000 ft	Yes A	2,964	3,063	103
Mississippi	Yes	500 ft	Yes T	6,000	7,000	120
Missouri	Yes	1000 ft	None	13,594	13,045	96
Montana	No		Yes A	754	1,070	142
Nebraska	No		Yes A	1,651	2,184	132
Nevada	Yes	1000 ft	No	4,649	5,295	114
New Hampshire	Yes	1000 ft	None	1,000	1,034	100
New Jersey	Yes	1000 ft	Yes A,T	15,600	18,400	118
New York	Yes	1000 ft	None	38,000	40,000	105
New Mexico	Yes	1000 ft	Yes A	2,671	2,859	107
N. Carolina	Pending	1000 ft	None	15,000	17,000	113
N. Dakota	No		Yes A,T	550	515	94
Ohio	Pending		None	18,100	27,000	149
Oklahoma	Yes	1000 ft	Yes A	7,288	9,391	119
Oregon	Federal	1000 ft	None	4,600	5,101	111
Pennsylvania	Yes	1000 ft	None	13,468	18,506	137
Rhode Island	Yes	500 ft	None	1,804	2,153	119
S. Carolina	Yes	1/2 mile	Yes A	12,585	13,067	104
S. Dakota	No		Yes A	1,050	1,050	100
Tennessee	No		Yes A	7,754	7,652	99
Texas	Proposed	1000 ft	Yes A	41,600	42,000	101
Utah	Yes	1000 ft	Yes A	2,500	3,000	120
Vermont	Yes	1000 ft	None	597	717	120
Virginia	Yes	1000 ft	None	11,460	13,125	114
Washington	Yes	1000 ft	Yes A,T	5,868	6,639	114
West Virginia	Federal	1000 ft	None	1,300	1,451	112
Wisconsin	Yes	1000 ft	None	4,800	6,200	129
Wyoming	No		None	850	850	100
TOTAL	Zones: 36 Pro/Pen: 3 None: 12	M:1000ft L: 1 mile S: 300 ft	#: 23 A: 20 T: 8	539,307	638,761	118
Ver. 10/20/89						

Dear New Jersey Resident:

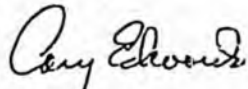
New Jersey now has one of the toughest drug laws in the nation. Our new law recognizes that if we are ultimately to win the so-called "war" on drugs, we can only succeed by reducing the demand for illicit substances. This, in turn, will largely depend on the new school education programs designed to teach our young people how and why they should say no to drugs. Our schools, in other words, will serve as the focal point of our efforts to raise a truly drug-free generation and ultimately win this war.

We must, therefore, be certain that schools and the areas around them, the "Drug-Free School Zones," are safe havens for children, not convenient marketplaces for drug dealers or users. We are even putting signs up across the State to make you, the citizens of New Jersey, aware of our strategy. Our children are entitled to an environment conducive to their education, one that is free of drugs and where drug trafficking activities are not tolerated. Children should not be able to look out their classroom window and see a drug deal taking place. They should not be able to find used "crack" vials littered around school playgrounds. They should not be propositioned to buy or use drugs while walking to school or in school buildings.

In sum, we must as an absolute priority do everything we can to keep innocent children as far away from the drug culture for as much of the day as possible. In this way, with your help, we can give our new K-12 drug education programs and drug awareness coordinators a chance to do their jobs of teaching our children how and why to say no to drugs. We are all soldiers in this war and we must join together and fight for a generation free of drugs.

Thank you for your help with this program, which is vital to the future of New Jersey's children.

Sincerely,



Cary Edwards  
ATTORNEY GENERAL OF NEW JERSEY

The Commission to Deter Criminal Activity was established in 1984 as part of the Department of Law and Public Safety and represents various law enforcement organizations, governmental officials and private citizens. The Commission is focused on the drug and alcohol problem in New Jersey and will educate the public about the penalties of violating the Drug Reform Act of 1987.

# The New Jersey Drug Laws:

## In a Drug-Free School Zone

- Any adult convicted of dealing or passing any type of illegal drug, other than marijuana, will get three years in prison without parole.



- Any adult convicted of dealing even a small amount of marijuana will get one year in prison without parole.
- Anyone convicted of passing a drug could be considered a dealer and therefore is also subject to prison without parole.
- Anyone convicted of simply having any type of illegal drug in a Drug-Free School Zone will have to do 100 hours of community service.



Be aware that under the law an adult is someone 18 years old and over. In addition, a juvenile, 14 years old and over, can be treated as an adult in an adult court.

**Don't mess with  
drugs in New Jersey schools.**

## Everywhere in New Jersey

- Anyone convicted of any drug offense will automatically lose his or her driver's license. It doesn't matter if a car was used in committing the offense.
- Anyone under 17 years of age who is convicted of any drug offense will not be able to get his or her driver's license for at least six months after turning 17.

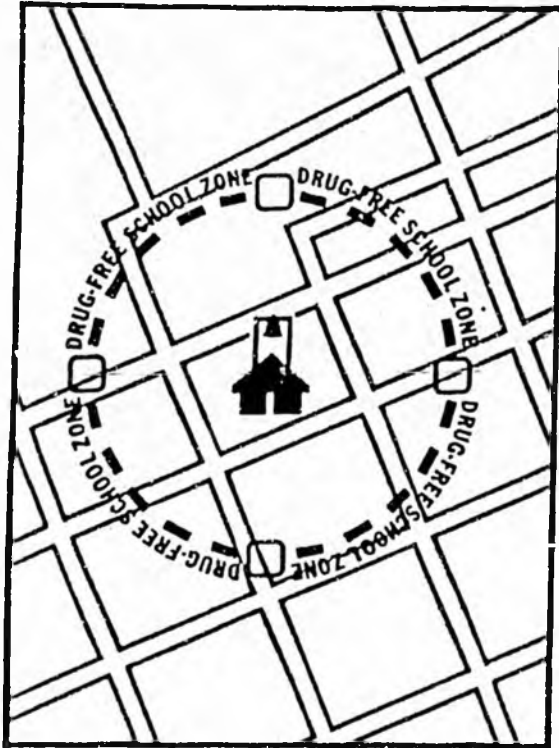


- Anyone convicted of any drug offense, including use, will have to pay a special cash penalty, which starts at \$500 and goes up to \$3,000. This money is intended for drug education and prevention programs.
- Any adult convicted of dealing or giving drugs to someone under 18 years old will have the regular penalties doubled.
- Any adult who is convicted of being in charge of a drug dealing ring will go to jail for 25 years without parole.
- Any adult (over 18 years old) who is convicted of using or employing a juvenile (under 18 years old) in a drug dealing ring will go to jail for five years without parole.

If you need further information contact the Attorney General's Statewide Narcotics Task Force, 6th Floor, Hughes Justice Complex, Trenton, New Jersey 08625 (609) 292-5020

**Drug-Free School Zones**  
are areas surrounding each  
school beginning at the  
outermost boundary of the  
school property  
and extending  
1000 feet from  
that point.

**DRUG-  
FREE  
SCHOOL  
ZONE**



*This Brochure printed courtesy of:*



*The American Dream Team*

Commission to Deter Criminal Activity  
5 Market Street CN085  
Monton, New Jersey 08625-0085

**Don't get  
caught with  
drugs here.**



# DRUG- FREE SCHOOL ZONE

If you need help for  
a drug problem, call:  
**1 800 225-0196.**

If you see someone  
breaking New Jersey's  
drug laws, call the  
Morris County  
Tipline:  
**(201) COP-CALL.**

All calls are strictly  
confidential.

Sponsored by the Attorney General's Statewide Narcotics Task Force.

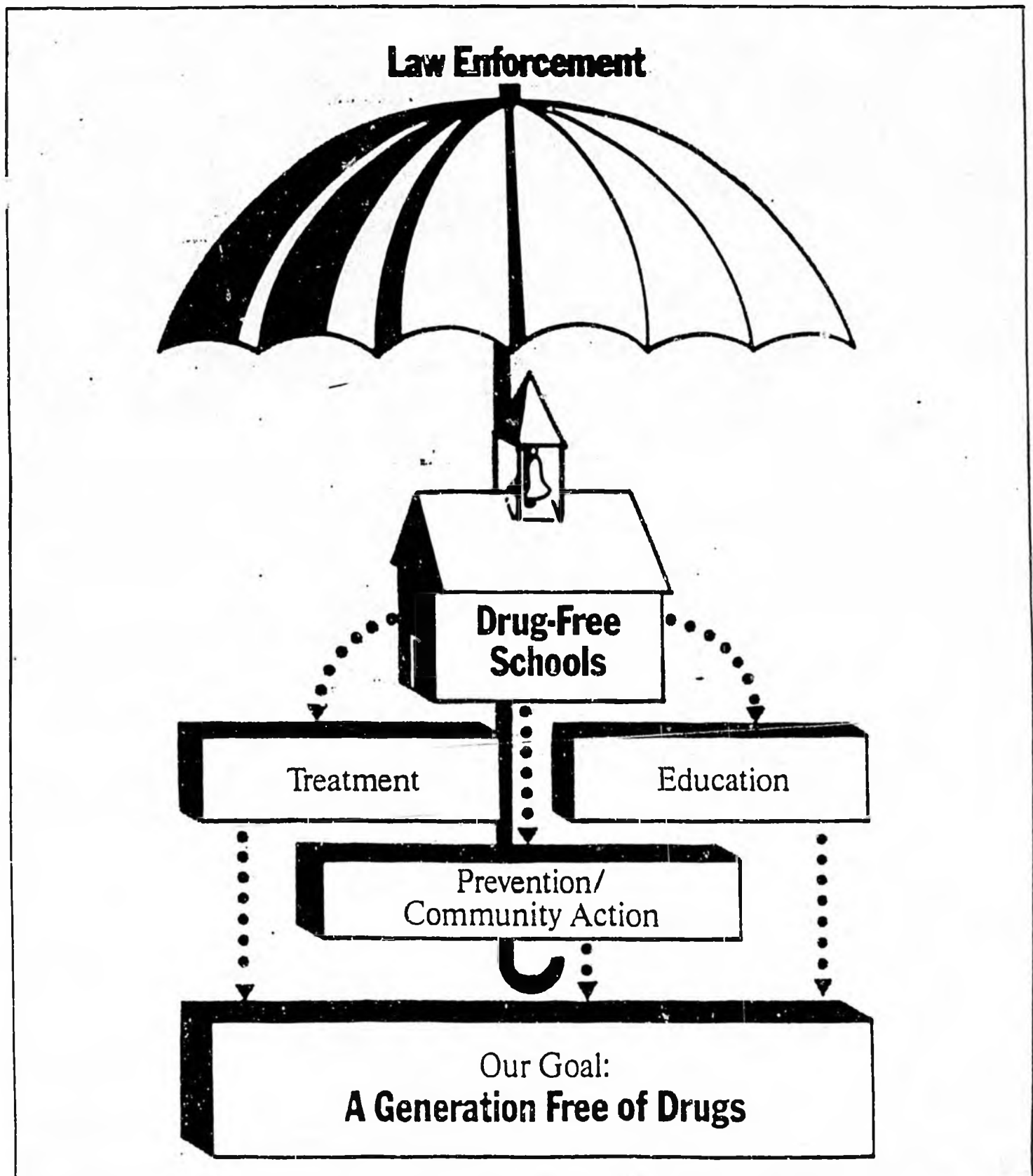
## Students' Rights Card

In New Jersey:

1. You have the right to attend a school that is free of drugs and violence.
2. You have the right to walk or drive to school without having to face someone selling drugs.
3. You have the right to drug education programs in your school and to learn how and why to say "no" to drugs.
4. If you already have problems with drugs and alcohol, you have the right to seek treatment and confidential counselling.
5. You have the right to grow up healthy and be the best you can be.

This is an ENLARGED version of a WALLETT SIZE  
card given to EVERY student (k-12) in New Jersey.

# New Jersey's **DRUG-FREE SCHOOLS** Demand Reduction Strategy



# New Jersey's **DRUG-FREE SCHOOLS** Demand Reduction Strategy

Recognizing the present level of use and demand for illegal drugs, it is foolish to believe that the law enforcement community alone can win the war on drugs. Law enforcement can, however, dedicate their resources to eliminate the sale, distribution, and use of illegal drugs from our school buildings, school property, and areas around our schools. This effort will create a safe environment for our children so that they may gain the benefits of our drug education programs. New Jersey's "**Drug-Free Schools**" Program is law enforcement's contribution to a comprehensive strategy designed to create a "Generation Free of Drugs."

**The "Drug-Free Schools" part of New Jersey's demand reduction strategy is founded on the principle that the law enforcement community with some new tools and the support of the rest of government has committed to create "Drug-Free Schools" throughout the entire state. This newly created drug-free school environment will then allow the drug education programs, expanded and planned new drug treatment concepts, and new community action alliance prevention initiatives the chance to work towards making the next generation a "Generation Free of Drugs."**

A generation (17 years) free of drugs can only be realistically achieved through a 17-year effort of new education, treatment and prevention programs. These non-law-enforcement components of the demand reduction strategy include the K through 12 education program now being instituted in our schools and the new substance abuse coordinators being installed in all New Jersey's school districts over 1988 through 1990 school years.

These education programs, coupled with the effective treatment programs for adults and children and the establishment of comprehensive community alliance prevention program for each of the 567 communities in New Jersey will help to ensure the success of law enforcement's Drug-Free School program and ultimately create a "Generation Free of Drugs."

New Jersey recognizes that our schools serve as the primary medium for reducing the demand for drugs. Protecting our schools is the greatest possible contribution law enforcement can make in achieving our goal: **A GENERATION FREE OF DRUGS.**

# Sign of the Times—Drug-Free N.J.

Brand new blue and white signs are springing up all across the state. They are unlike any other signs in the country. "Drug-Free School Zone," they proclaim. These signs have generated a great deal of discussion, and have raised a number of questions. What is a "drug-free school zone?" What is hoped to be accomplished by posting signs?

Designed to heighten public awareness regarding New Jersey's tough new drug laws, the signs were posted to raise precisely this type of question, while simultaneously alerting the public to the existence of "drug-free school zones."

Under the new law, the Comprehensive Drug Reform Act of 1987, which became effective on July 9, 1987, drug-free school zones extend 1,000 feet in all directions from the outer boundaries of every elementary and secondary school in the state. The zones are not limited to public schools, but include private and parochial schools as well. The law now provides that anyone distributing drugs within those school zones faces enhanced punishment. Specifically, a dealer who operates in a school zone is subject to a minimum mandatory term of three years imprisonment with no possibility of parole.

The goal of law enforcement is to move drug sales and possession at least 1,000 feet outside of all the schools in the state. This will give the new drug education, general education and new drug coordinators in our schools over the next generation a chance to win the war which law enforcement cannot win alone. The creation of drug-free zones around the more than 2,400 schools is a realistic and achievable goal.

The especially tough punishment for drug-free school zone offenders is not restricted to dealers alone. A person, juvenile or adult, who uses or possesses an illicit drug within a school zone faces a mandatory 100 hours of community service. This is in addition to the \$500 penalty which will be returned to the community for drug education and prevention, and the mandatory revocation or postponement of a driving license for at least six months and up to two years.

The drug-free school zone component of New Jersey's Comprehensive Drug Reform Act is not without its share of controversy. No innovative law ever is. It has been suggested that by providing enhanced punishment for school zone offenders, we may simply be encouraging dealers to set up shop just outside the school zone boundaries and that it would be better to simply post signs proclaiming a drug-free New Jersey. These are fair propositions which require a candid response.

We know that despite our best efforts, the war on drugs cannot be won overnight. A drug-free New Jersey—not a warning on signs—is our ultimate and long range goal. Tough laws alone cannot achieve that goal. But we can take immediate steps to rid schools and the adjacent areas of drug trafficking.

With the help of the education community, a drug-free school zone is a goal which is enforceable, is realistic, and by Dec. 31, 1988 our 14-month implementation plan of this new law should be in full swing.

This does not mean that we plan to tolerate or ignore drug offenses occurring outside of school zones. It merely means that we are setting realistic goals. Our new law provides tough punishment for all offenders, and New Jersey now has a mandatory arrest policy throughout the state. But we have directed many of our limited resources and efforts specifically to patrolling school zones. The question then becomes, why focus on schools?

Our new law recognizes that if we are ultimately to win the so-called "war" on drugs, success will depend on reducing the demand for illicit substances. This, in turn, will depend on the new education programs being utilized in our schools. Designed to teach our young people how and why they should "say no," these programs will actuate a fundamental reversal of society's tolerance of drug use. New Jersey's new penal law recognizes as much. It also recognizes that our schools will serve as one of the primary mediums for achieving this long-range objective.

We must therefore be certain that schools and the areas

around them are safe havens for children, not marketplaces for drug dealers or users. By vigorously enforcing our drug-free school zone plan, law enforcement will fulfill part of its vital role in promoting critically important demand reduction initiatives. Almost one-third of children try drugs before the 9th and 10th grade and about two-thirds by the time they finish high school.

Our children are entitled to an environment which is conducive to education, free of drugs and where drug trafficking activities will not be tolerated. Children should not be able to look out their classroom window and see a drug deal taking place. They should not be able to find used "crack" vials littered around school playgrounds. They should not be propositioned to buy or use drugs while walking to school or inside school buildings.

Therefore, we must, as an absolute priority, do everything we can to keep innocent children as far away from the drug culture for as much of the day as possible. This gives our new K-12 drug coordinated curriculum program and new drug coordinators and counselors a chance to do their jobs.

The reason for creating drug-free school zones is thus apparent: We intend to push the drug pushers away from children, who are the most vulnerable and impressionable of drug victims. We want to make drugs less available to our children, and force them to go to greater lengths to complete illicit transactions. We want to make it harder for dealers to get to our children.

Some students, of course, especially those who are already regular users or who are drug dependent, will follow the dealers to their new locations. It's our belief, however, that with this comprehensive coordinated approach the next generation and the older children not yet involved will not follow the drug dealer and will have the tools to know "how" and "why" to say no.

The new signs, in turn, evidence our resolve to vigorously enforce this new law which is among the toughest in the nation. Knowledge of where the drug-free school zones are and what a violation means will speed the process of achieving our goal of "getting the user and the pusher 1,001 feet away from schools." The signs remind everyone that the drug problem is pervasive, that no community has been spared, and more importantly, that the zones exist and we intend to make our schools drug-free. They will also serve to remind us to be vigilant at all times. We hope, in this regard, that law abiding citizens will help us to achieve this goal by calling the police whenever they see illegal drug activities within those "drug-free school zones."

These new signs are not, and were never meant to be, the answer to our drug problem. Rather, they are a very small but highly visible part of a much larger, comprehensive program designed to address both the supply and demand sides of this deadly problem.

Some may argue that these signs are empty symbols, without meaning or impact. Rest assured, however, that there will be many disbelieving drug predators sitting in prison who will have three long years to contemplate the symbolism. More importantly, more than one million children of the next generation will have a better chance to grow up drug free and be the best they can be.

The plans and tools are in place but only the local community, with the involvement of town governments, police departments, local educators and citizens, can really make our goal for the next generation of children a reality.



CARY EDWARDS  
Attorney General of New Jersey

Attorney General Edwards was assisted in the writing of this article by Ron Susswein in the Division of Criminal Justice, Department of Law and Public Safety.

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NJ Department of Law and Public Safety/Office of Attorney General: Divisions of Alcoholic Beverage Control • Civil Rights • Consumer Affairs • Criminal Justice • Gaming Enforcement • Highway Traffic Safety • Law • Motor Vehicles • Racing • State Police • Other agencies: Commission on Missing Persons • Executive Commission on Ethical Standards • Election Law Enforcement Commission • State Law Enforcement Planning Agency • State Athletic Control Board • Violent Crimes Compensation Board

S B

3 5 5

# HOUSE COMMITTEE REPORT

(7)

Date Referred: March 30, 1990

FURTHER REFERRALS:

Date of Committee Action: 5/5/90

5/5

Dule

The JUDICIARY Committee considered:

CSSB 355 (JUDICIARY) am

CS SB NO. 355 (Jud) am SEX OFFENSES BY TEACHERS/SCHOOL EMPLOYEES

"An Act relating to crimes involving sexual penetration or sexual contact with minors, including situations where the adult occupies a position of special trust in relation to the minor; defining 'legal guardian' for certain crimes; and relating to the issuance to, and revocation of teaching certificates of, persons convicted of certain crimes involving a minor."

**RECOMMENDATIONS:**

- be replaced with HCS CS SB 355 (Judiciary)  the same title  a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

- ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Date/Dept) \_\_\_\_\_
- fiscal impact \_\_\_\_\_ *5 months* ] fiscal note(s) \_\_\_\_\_ *corrections*
  - zero fiscal note \_\_\_\_\_ 3  zero fiscal note(s) 1/24/90 *corrections/hawt*
  - zero with analysis \_\_\_\_\_  zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING:**  
(Check appropr. column)

Do Not Pass  
No Rec  
Amend

<u>Mr. Gruenberg</u> Gruenberg	<u>Mike D</u> DAVIS			
<u>Ellis</u> Ellis	<u>Peter</u> Gail	<input checked="" type="checkbox"/>		
<u>Terry Martin</u> Martin				
<u>Michael Miller</u> Miller				

Peter Gail

Mr. Gruenberg

Chairman's Signature

Original sponsor(s): SEN. FISCHER

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 355 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to crimes involving sexual penetra-  
7 tion or sexual contact with minors, including sit-  
8 uations where the adult occupies a position of  
9 special trust in relation to the minor; defining  
10 'legal guardian' for certain crimes; and relating to  
11 the issuance and revocation of teaching certificates  
12 for persons convicted of certain crimes involving a  
13 minor."

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

15 \* Section 1. AS 11.41.434(a) is amended to read:

16 (a) An offender commits the crime of sexual abuse of a minor in  
17 the first degree if

18 (1) being 16 years of age or older, the offender engages in  
19 sexual penetration with a person who is under 13 years of age or aids,  
20 induces, causes, or encourages a person who is under 13 years of age  
21 to engage in sexual penetration with another person;

22 (2) being 18 years of age or older, the offender engages in  
23 sexual penetration with a person who is under 18 years of age, and the  
24 offender is the victim's natural parent, stepparent, adopted parent,  
25 or legal guardian [WHO

26 (A) IS ENTRUSTED TO THE OFFENDER'S CARE BY AUTHORITY  
27 OF LAW; OR

28 (B) IS THE OFFENDER'S SON OR DAUGHTER, INCLUDING AN  
29 ILLEGITIMATE OR ADOPTED CHILD, OR A STEPCHILD]; or

1 (3) being 18 years of age or older, the offender engages in  
2 sexual penetration with a person who is under 16 years of age, and

3 (A) the victim at the time of the offense is [(A)]  
4 residing [AS A MEMBER OF THE SOCIAL UNIT] in the same household  
5 as the offender and the offender has [IS IN A POSITION OF]  
6 authority over the victim; or

7 (B) the offender occupies a position of authority in  
8 relation to the victim [TEMPORARILY ENTRUSTED TO THE OFFENDER'S  
9 CARE].

10 \* Sec. 2. AS 11.41.436(a) is amended to read:

11 (a) An offender commits the crime of sexual abuse of a minor in  
12 the second degree if

13 (1) being 16 years of age or older, the offender engages in  
14 sexual penetration with a person who is 13, 14, or 15 years of age and  
15 at least three years younger than the offender, or aids, induces,  
16 cause, encourages a person who is 13, 14, or 15 years of age and at  
17 least three years younger than the offender to engage in sexual pene-  
18 tration with another person;

19 (2) being 16 years of age or older, the offender engages in  
20 sexual contact with a person who is under 13 years of age or aids,  
21 induces, causes, or encourages a person under 13 years of age to  
22 engage in sexual contact with another person;

23 (3) being 18 years of age or older, the offender engages in  
24 sexual contact with a person who is under 18 years of age, and the  
25 offender is the victim's natural parent, stepparent, adopted parent,  
26 or legal guardian [WHO

27 (A) IS ENTRUSTED TO THE OFFENDER'S CARE BY AUTHORITY  
28 OF LAW; OR

29 (B) IS THE OFFENDER'S SON OR DAUGHTER, INCLUDING AN

1 ILLEGITIMATE OR ADOPTED CHILD, OR A STEPCHILD];

2 (4) being 16 years of age or older, the offender aids,  
3 induces, causes, or encourages a person who is under 16 years of age  
4 to engage in conduct described in AS 11.41.455(a)(2) - (6); or

5 (5) being 18 years of age or older, the offender engages in  
6 sexual contact with a person who is under 16 years of age, and

7 (A) the victim at the time of the offense is [(A)]  
8 residing [AS A MEMBER OF THE SOCIAL UNIT] in the same household  
9 as the offender and the offender has [IS IN A POSITION OF]  
10 authority over the victim; or

11 (B) the offender occupies a position of authority in  
12 relation to the victim [TEMPORARILY ENTRUSTED TO THE OFFENDER'S  
13 CARE].

14 \* Sec. 3. AS 11.41.438(a) is amended to read:

15 (a) An offender commits the crime of sexual abuse of a minor in  
16 the third degree if [,]

17 (1) being 16 years of age or older, the offender engages in  
18 sexual contact with a person who is 13, 14, or 15 years of age and at  
19 least three years younger than the offender; or

20 (2) being 18 years of age or older, the offender engages in  
21 sexual penetration with a person who is 16 or 17 years of age and at  
22 least three years younger than the offender, and the offender occupies  
23 a position of authority in relation to the victim.

24 \* Sec. 4. AS 11.41.440(a) is amended to read:

25 (a) An offender commits the crime of sexual abuse of a minor in  
26 the fourth degree if [,]

27 (1) being under 16 years of age, the offender engages in  
28 sexual penetration or sexual contact with a person who is under 13  
29 years of age and at least three years younger than the offender; or

1           (2) being 18 years of age or older, the offender engages in  
2 sexual contact with a person who is 16 or 17 years of age and at least  
3 three years younger than the offender, and the offender occupies a  
4 position of authority in relation to the victim.

5 \* Sec. 5. AS 11.41.470 is amended by adding new paragraphs to read:

6           (5) "legal guardian" means a person who is under a duty to  
7 exercise general supervision over a minor as a result of a court  
8 order, statute, or regulation, and includes foster parents and staff  
9 members and other employees of group homes or youth correctional  
10 facilities where a child is placed as a result of a court order or the  
11 action of the division of family and youth services, and police offi-  
12 cers and probation officers when those officers are exercising custo-  
13 dial control over a minor;

14           (6) "position of authority" means an employer, youth lead-  
15 er, scout leader, coach, teacher, counselor, school administrator,  
16 religious leader, doctor, nurse, psychologist, guardian ad litem,  
17 babysitter, or a substantially similar position, and a police officer  
18 or probation officer other than when the officer is exercising custo-  
19 dial control over a minor.

20 \* Sec. 6. AS 14.20.020(a) is amended to read:

21           (a) Except as provided in (f) of this section, the [THE] depart-  
22 ment shall issue a teacher certificate to every person who meets the  
23 requirements in (b) and (c) of this section.

24 \* Sec. 7. AS 14.20.020 is amended by adding a new subsection to read:

25           (f) Except as otherwise provided in this subsection, the depart-  
26 ment may not issue a teacher certificate to a person who has been  
27 convicted of a crime involving a minor under AS 11.41.434 - 11.41.442,  
28 11.41.455, or 11.41.460, or under a law in another jurisdiction with  
29 elements substantially similar to an offense described in

1 AS 11.41.434 - 11.41.442, 11.41.455, or 11.41.460. When five years  
2 have elapsed after a person has received an unconditional discharge  
3 for a conviction of a crime listed in this subsection, the person may  
4 petition the department to issue the certificate in spite of the  
5 conviction if the person otherwise satisfies the requirements for the  
6 certificate. When deciding whether to grant or deny the petition, the  
7 department shall consider the nature of the particular crime, whether  
8 and to what extent the person has been rehabilitated, and the other  
9 factors that the department determines are significant.

10 \* Sec. 8. AS 14.20.030 is amended by adding a new subsection to read:

11 (b) The commissioner or the Professional Teaching Practices  
12 Commission shall revoke for life the certificate of a person who has  
13 been convicted of a crime involving a minor under AS 11.41.434 -  
14 11.41.442, 11.41.455, or 11.41.460, or under a law in another juris-  
15 diction with elements substantially similar to an offense described in  
16 AS 11.41.434 - 11.41.442, 11.41.455, or 11.41.460. When five years  
17 have elapsed after the person has received an unconditional discharge  
18 for the conviction, the person may petition the commission for re-  
19 certification. When deciding whether to grant or deny the petition,  
20 the commission shall consider the nature of the particular crime,  
21 whether and to what extent the person has been rehabilitated, and the  
22 other factors that the commission determines are significant.

23 \* Sec. 9. AS 14.20.215 is amended by adding a new paragraph to read:

24 (7) "unconditional discharge" has the meaning given in  
25 AS 12.55.185.

26 \* Sec. 10. AS 14.20.020(f), as enacted by sec. 7 of this Act, and  
27 AS 14.20.030(b), as enacted by sec. 8 of this Act, do not apply when the  
28 crime occurred before the effective date of this Act.

# Alaska State Legislature



## House of Representatives House Judiciary Committee

P. O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990  
(907) 465-4712

### LETTER OF INTENT

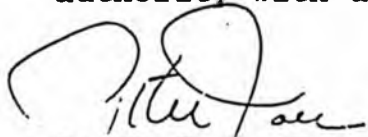
FOR


HCS FOR CS FOR SENATE BILL NO. 355 (Judiciary)

As used in AS 11.41.470, a "position of authority" is a position that enables an offender to exercise undue influence over the victim. The definition is intended to include those persons covered under the current law that makes it a crime to have sexual penetration or contact with a person under age 16 who is "temporarily entrusted to the offender's care," and to extend the definition to include other persons, such as police officers and guardians ad litem, who are in positions that enable them to exercise undue influence over children.

Employers are specifically included in the definition of position of authority. In the context of AS 11.41.434 - 11.41.440, an employer is a natural person who owns a business or operates an agency. A direct job supervisor with hiring and firing authority is in a position substantially similar to that of an employer.

The nature of an adult's position of authority in relation to the victim determines the duration of the prohibition against sexual relations between the adult and child. For example, the relationship of authority between a child and the child's teacher may continue even during the intervals between classes. On the other hand, an adult who volunteers to chaperon a single school dance does not thereby automatically create a continuing relationship of authority with all students attending the dance.

  
\_\_\_\_\_  
Co-Chairman Peter Goll

  
\_\_\_\_\_  
Co-Chairman Max Gruenberg

5/7/90  
\_\_\_\_\_  
Date: May 7th, 1990

Letter of Intent

for

HCS FOR CS FOR SENATE BILL NO. 355 (Judiciary)

The changes to AS 11.41.434(a) are intended to clarify the meaning of two terms used in existing law -- "entrusted to the offender's care by authority of law" and "temporarily entrusted to the offender's care." The amendments are needed as a result of a recent Anchorage case, State v. Carlson, 3AN-S89-7443 Cr., in which the superior court concluded that the term "entrusted to the offender's care by authority of law" did not apply to teachers, and that if the legislature intended the language to apply to persons other than legal guardians, the statute was unconstitutionally vague. The term "temporarily entrusted to the offender's care" is clarified as well, in order to avoid litigating whether that term is unconstitutionally vague.

The amendments make it an unclassified felony to have sexual penetration (and a B felony to have sexual contact) with a person under 16 where the offender occupies a "position of special trust" in relation to the victim. In addition, where the offender occupies a "position of special trust" in relation to the victim and holds a license or certificate to engage in certain professions, it is a B misdemeanor to have sexual penetration (and a violation to have sexual contact) with a 16- or 17-year-old person who is at least three years younger than the offender.

A "position of special trust" is a position that could enable an offender to exercise undue influence over the victim. The definition includes a list of positions that fall within the law. The definition is intended to include all persons covered under the current law making it a crime to have sexual penetration or contact with a person under age 16 who is "temporarily entrusted to the offender's care," and to broaden the definition to include other persons, such as police officers and guardian ad litem, who are in a position that could enable them to exercise undue influence over children. Persons other than those specifically listed are included within the definition only if they are in a position substantially similar to a position specifically included in the definition.

For example, the definition includes the term "babysitter." Positions substantially similar to "babysitter" include a person who is temporarily caring for a minor while the minor's parents are out of town, or an adult who takes a minor along on a camping trip, or an adult who allows a minor to sleep in the adult's home overnight as the guest of the adult's own child. Other examples of positions that are substantially similar to those specifically listed within the definition are parents who

volunteer to work with children in schools or youth groups. These adults are in positions substantially similar to youth leaders and scout leaders.

The nature of an adult's position of special trust determines the duration of the prohibition against sexual relations between the adult and child. The relationship of special trust between a child and the child's teacher or youth leader continues even during the intervals between classes or formal meetings of the youth group, because there is an expectation of future, ongoing (albeit intermittent) contact between the adult and the child in the context of the relationship of special trust. On the other hand, an adult who volunteers to chaperon a single school dance does not thereby create an open-ended relationship of special trust with all the students who attend the dance; rather, that relationship is limited to the dance and the time before and after the dance when students are arriving and going home.

The amendments also make it an unclassified felony for a natural parent, stepparent, adopted parent, or legal guardian to engage in sexual penetration (and a B felony to engage in sexual contact) with a person under the age of 18. The penalties are the same as provided under current law for these categories of persons; the amendment is necessary as a result of removing the language "entrusted to the offender's care by authority of law" from the statute. The definition of "legal guardian" specifically includes foster parents, staff members of group homes or youth correctional facilities where a child is placed as a result of court order or action of the Division of Family and Youth Services, and police or probation officers exercising custodial control over a minor.

# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 31, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 3/29/90

The HESS Committee considered:

CSSB 355 (JUD) am

CS SB NO. 355 (Jud) am SEX OFFENSES BY TEACHERS/SCHOOL EMPLOYEES  
"An Act relating to crimes involving sexual penetration or sexual contact with minors, including situations where the adult occupies a position of special trust in relation to the minor; defining 'legal guardian' for certain crimes; and relating to the issuance to, and revocation of teaching certificates of, persons convicted of certain crimes involving a minor."

RECOMMENDATIONS:

- [ ] be replaced with \_\_\_\_\_ [ ] the same title
- [ ] \_\_\_\_\_ [ ] a new title
- [ ] have attached amendment(s)
- [X] do pass
- [ ] do not pass
- [ ] no recommendation
- [ ] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [ ] fiscal impact \_\_\_\_\_
- [ ] zero fiscal note \_\_\_\_\_
- [ ] zero with analysis \_\_\_\_\_

- [ ] fiscal note(s) \_\_\_\_\_
- [3] zero fiscal note(s) 1/24/90 Com./Jud/Ed.
- [ ] zero fn/analysis \_\_\_\_\_

SIGNING DO PASS:

*J. Ellis*  
~~*W. H. ...*~~  
~~*...*~~  
~~*...*~~  
 \_\_\_\_\_  
 \_\_\_\_\_  
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SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
<i>W. H. ...</i>		*	
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_____			

*J. Ellis*  
 \_\_\_\_\_  
 Chairman's Signature

A M E N D M E N T #)

OFFERED IN THE HOUSE

TO: CSSB 355 (Judiciary) am

Page 1, line 10:

Delete "and"

Page 1, line 13, following "minor":

Insert "; and requiring law enforcement officers and social workers to report to the Professional Teaching Practices Commission information concerning sexual misconduct by teachers"

Page 5, following line 16:

Insert a new bill section to read:

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

Sec. 47.17.021. REQUIRED REPORTING OF TEACHER MISCONDUCT. (a)  
A law enforcement officer or a social worker in the state shall disclose to the Professional Teaching Practices Commission information that the person has acquired in the performance of the person's professional duties and that gives the person reason to believe that a teacher in the state has engaged in conduct with a minor violating AS 11.41.434 - 11.41.438, 11.41.455, or 11.41.460. The report required under this subsection is in addition to the report required under AS 47.17.020.

(b) This section does not prohibit law enforcement officers and

social workers from reporting cases that have come to their attention in their nonoccupational capacities, nor does it prohibit any other person from reporting the information set out in (a) of this section."

Renumber the following bill section accordingly.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 16, 1990

SUBJECT: Amendments to CSSB 355 (Jud) am  
TO: Representative Johnny Ellis  
Attn: Jim Nordlund  
FROM: John B. Gaguine <sup>JBG</sup>  
Legislative Counsel

Enclosed is one amendment you requested to CSSB 355 am S (the "Satch Carlson bill") based on the grand jury report. This amendment is the one imposing a reporting requirement to the Professional Teaching Practices Commission (PTPC) by law enforcement officers and social workers. (I added the social worker requirement because it seemed appropriate and consistent with AS 47.17.) There is, however, a major problem with this amendment. As you see, it necessitates a title change, which under the Uniform Rules cannot be done without a resolution. If you wish, I can prepare such a resolution, or I can redo the amendment as a new bill.

I did not draft the other amendment recommended, relating to the PTPC notifying other state teacher licensing authorities about revocations for sexual misconduct, because the authority already exists. I happened to see on the news last night that the PTPC revoked Carlson's certificate, and notified all the other states. So I called the PTPC to see what their authority to do that was. They pointed me to a regulation, 4 AAC 12.095(b), which requires the Department of Education to "provide to all other state departments of education notice of revocation or suspension of a certification." I think that this regulation, which apparently was overlooked by the grand jury, meets the grand jury's desires. Of course, if you still want legislation on this matter, I will be happy to draft it.

If I may be of further assistance, please advise.

JBG:pl  
WKP3/047  
Enclosure

'x 'x

8355

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA, )  
 )  
 Plaintiff, )  
 )  
 vs, )  
 )  
 GORDON C. CARLSON )  
 )  
 Defendant )

Case No. 3AN-S89-7443 Cr.

MEMORANDUM DECISION AND ORDER

The defendant is an Anchorage high school teacher charged with two counts of Sexual Abuse of a Minor in the First Degree under AS 11.41.434(a)(2)(A) and one count of Sexual Abuse of a Minor in the Second Degree under 11.41.436(a)(3)(A) with a 17 year old female student. Both statutes prohibit a person 18 years of age or older from engaging in sexual penetration and contact with a person who is under 18 years old and who "is entrusted to the offender's care by authority of law."

The defendant moved to dismiss, asserting that the statutes do not apply to a high school teacher-17 year old student relationship. Alternatively, the defendant argues that even if the statutes are applicable, they are void for vagueness. The state opposes the motion to dismiss, arguing that the statutes are applicable because of the special legal relationship between high school teachers and students. The state also asserts that the statutes are not void for vagueness.

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was intended to prohibit an offender from having sexual contact with a minor "under 18 who is entrusted to his care by authority of law (i.e., ward) or who is his son or daughter." 1978 Alaska Senate Journal, Supplement No.47, at 23. The Senate's use of the language, "i.e., ward" is instructive. The abbreviation, "i.e." stands for the Latin "id est," meaning "that is" or "that is to say." Black's Law Dictionary (5th Ed. 1979). This can be distinguished from the abbreviation, "e.g.," which generally means "for example." In using the language, "i.e., ward," the Senate apparently meant to limit application of the statute to wards.

The state's argument for a broad construction of the term "ward", based on the Model Penal Code, is not persuasive. Under the state's theory, the statutes could be applied to a variety of individuals, such as camp supervisors. The court believes that the term "ward" should be given its more traditional legal meaning. For example, in Title 13 of the Alaska Statutes, which covers decedent's estates, guardianships and trusts, "ward" is defined as "a person for whom a guardian has been appointed." AS 13.25.005(10). A "guardian," according to that section, is one who possesses the duties and powers set forth in AS 13.26.150(c), or one whose powers and duties have been specified by court order. A high school teacher does not fall within either category. Such a traditional construction is also consistent with the rule that vague statutes should be read narrowly in favor of the defendant. It is also consistent with the usage employed by the Alaska Supreme Court in discussing the

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

x x \$B 355

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA, )  
 )  
 Plaintiff, )  
 )  
 vs, )  
 )  
 GORDON C. CARLSON )  
 )  
 Defendant )  
 )

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The language, "entrusted to the offender's care by authority of law," is not defined in the statutes, and the meaning of the phrase is not clear on the face of the statutes. The defendant argues that the language should be construed narrowly to refer to a guardian-ward relationship. The state argues for a broader definition that would encompass a variety of relationships, including teacher and student.

The goal of statutory interpretation is to give effect to legislative intent, with due regard for the meaning the statutory language conveys to others. Tesoro Alaska Petroleum Co. v. Kenai Pipeline Co., 746 P.2d 896 (Alaska 1987). Legislative intent is generally found in the statutory language, but where the language is vague or ambiguous, the intent must be derived by applying rules of construction.

A traditional rule of construction is that vague or ambiguous criminal statutes should be read narrowly in favor of the defendant and against the state. Kuvaas v. State, 696 P.2d 684 (Alaska App. 1985); State v. R.H., 683 P.2d 269 Alaska App. 1984). The court believes that construing the disputed language narrowly to refer to a guardian-ward relationship would be consistent with this rule of construction. This conclusion is further supported by several other considerations.

In construing statutes, courts may also resort to legislative history. City and Borough of Sitka v. I.B.E.W., Local Union 1547, 653 P.2d 332 (Alaska 1982). The Alaska Senate considered identical language in an earlier statute in 1978. See former AS 11.41.410. The Senate commented that the statute

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was intended to prohibit an offender from having sexual contact with a minor "under 18 who is entrusted to his care by authority of law (i.e., ward) or who is his son or daughter." 1978 Alaska Senate Journal, Supplement No.47, at 23. The Senate's use of the language, "i.e., ward" is instructive. The abbreviation, "i.e." stands for the Latin "id est," meaning "that is" or "that is to say." Black's Law Dictionary (5th Ed. 1979). This can be distinguished from the abbreviation, "e.g.," which generally means "for example." In using the language, "i.e., ward," the Senate apparently meant to limit application of the statute to wards.

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guardian-ward relationship. In Johnson v. Johnson, 544 P.2d 65 (Alaska 1975) the court stated that general guardians are "entrusted with the general care and supervision" of a ward or a ward's estate.

Another applicable rule of statutory construction is the doctrine of ejusdem generis, which means "of the same kind, class, or nature." Black's Law Dictionary (5th Ed. 1979). Under this doctrine, where general words are closely followed or preceded by specific words, the general words are regarded as referring to the same type or kind of thing as the specific words. State v. First National Bank of Anchorage, 660 P.2d 406 (Alaska 1982). In both statutes, the disputed language is followed in the same subsection with the phrase, "the offender's son or daughter, including an illegitimate or adopted child, or a stepchild." This language is specific, since it refers to a clearly defined group of people. The more general language, "entrusted to the offender's care by authority of law," should be construed as referring to the same type of relationship as the specific language. A guardian-ward relationship is very similar to the family relationships specified in the statutes. On the other hand, a teacher-student relationship is substantially different. Therefore, it appears that the legislature did not intend the general phrase to apply to a teacher-student relationship.

Had the legislature intended these statutes to apply to teachers, it could have said so in precise language. Other statutes use the specific term "teacher" when they are intended

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to apply to teachers. For example, AS 11.81.430 provides several justifications for the use of physical force against another person. Subsection (a)(1) is directed toward "a parent, guardian or other person entrusted with the care and supervision of a child." Subsection (a)(2) is directed specifically at "a teacher." The court also notes the proposed legislation amending AS 11.41.434 by making it specifically applicable to "high school" personnel and "students." These examples clearly indicate the ability of the legislature to use precise terminology when it intends to refer to teachers.

Even if the legislature intended the statutes to apply to teachers, this court concludes that the language used is unconstitutionally vague. In order to survive a vagueness challenge, a statute "must give adequate notice to the ordinary citizen of what is prohibited." Stock v. State, 526 P.2d 3 (Alaska 1974). An ordinary citizen reading the statutes here would not have adequate notice of what conduct is prohibited.

Another concern in analysis of vagueness problems "is whether the statute gives undue discretion to prosecuting authorities in determining what constitutes the crime." Stock v. State, 526 P.2d 3 (Alaska 1974). Where imprecise statutes have invited arbitrary application "so that there has been a history or a strong likelihood of uneven application," they have been held unconstitutionally vague. Id. The defendant's affidavits provide evidence that the statutes have been applied unevenly in the past. The court need not decide this allegation, since it is sufficient if a "strong likelihood" of arbitrary

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enforcement exists. In this case, the possibility of uneven enforcement is sufficiently great, that the statute should be declared unconstitutionally vague.

Where the legislature does not clearly define the scope of a statute's coverage, the prosecution has unfettered discretion to apply the statute to whomever it desires. No matter how distasteful or undesirable certain alleged conduct may appear to the state or the public, the courts cannot permit the prosecution to assume this legislative responsibility. The state should not have the discretion whether or not to charge an individual teacher with an unclassified felony, carrying a maximum penalty of 30 years in prison with a presumptive sentence of 8 years, based on a statute which on its face does not clearly apply to teachers. Considering the level of influence a music teacher is likely to exercise over a 17 year old female student, such a result would seem illogical when one considers that an adult offender engaging in sexual penetration of a 13 year old generally commits only a class B felony, with no presumptive sentence. AS 11.41.436(c)(1). Certainly a 13 year old generally would be more susceptible to influence than a 17 year old high school student.

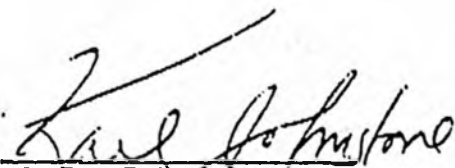
In summary, the court concludes that the statutes in question do not apply to prohibit sexual activity between a high school teacher and a 17 year old student. Alternatively, even if the legislature did intend the statutes to apply, the statutes are unconstitutionally vague.

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It is, therefore, ORDERED that the defendant's motion to dismiss indictment is GRANTED.

Dated this 18 day of January, 1990 at Anchorage, Alaska.

  
Karl S. Johnstone,  
Superior Court Judge

Senate Letter of Intent  
(amended)

for

CSSB 355 (Judiciary)

The changes to AS 11.41.434(a) are intended to clarify the meaning of two terms used in existing law -- "entrusted to the offender's care by authority of law" and "temporarily entrusted to the offender's care." The amendments are needed as a result of a recent Anchorage case, State v. Carlson, 3AN-S89-7443 Cr., in which the superior court concluded that the term "entrusted to the offender's care by authority of law" did not apply to teachers, and that if the legislature intended the language to apply to persons other than legal guardians, the statute was unconstitutionally vague. The term "temporarily entrusted to the offender's care" is replaced as well, in order to avoid litigating whether that term is unconstitutionally vague.

The amendments make it an unclassified felony to have sexual penetration (and a B felony to have sexual contact) with a person under 16 where the offender occupies a "position of special trust" in relation to the victim. In addition, where the offender occupies a "position of special trust" in relation to the victim, it is a B felony to have sexual penetration (and a C felony to have sexual contact) with a 16- or 17-year-old person who is at least three years younger than the offender.

A "position of special trust" is a position that could enable an offender to exercise undue influence over the victim. The definition includes a list of positions that fall within the law. The definition is intended to include all persons covered under the current law making it a crime to have sexual penetration or contact with a person under age 16 who is "temporarily entrusted to the offender's care," and to broaden the definition to include other persons who are in a position that could enable them to exercise undue influence over children. Persons other than those specifically listed are included within the definition only if they are in a position substantially similar to a position specifically included in the definition.

For example, the definition includes the term "babysitter." Positions substantially similar to "babysitter" include a person who is temporarily caring for a minor while the minor's parents are out of town, or an adult who takes a minor along on a camping trip, or an adult who allows a minor to sleep in the adult's home overnight as the guest of the adult's own child. Others examples of positions that

are substantially similar to those specifically listed within the definition are parents who volunteer to work with children in schools or youth groups. These adults are in positions substantially similar to youth leaders, and scout leaders.

The nature of an adult's position of special trust determines the duration of the prohibition against sexual relations between the adult and child. The relationship of special trust between a child and the child's teacher or youth leader continues even during the intervals between classes or formal meetings of the youth group, because there is an expectation of future, ongoing (albeit intermittent) contact between the adult and the child in the context of the relationship of special trust. On the other hand, an adult who volunteers to chaperon a single school dance does not thereby create an open-ended relationship of special trust with all the students who attend the dance; rather, that relationship is limited to the dance and the time before and after the dance when students are arriving and going home.

Employers and job supervisors were specifically not included within the definition of "position of special trust."

The amendments also make it an unclassified felony for a natural parent, stepparent, adopted parent, or legal guardian to engage in sexual penetration (and a B felony to engage in sexual contact) with a person under the age of 18. The penalties are the same as provided under current law for these categories of persons; the amendment is necessary as a result of removing the language "entrusted to the offender's care by authority of law" from the statute. The definition of "legal guardian" specifically includes foster parents and staff members and other employees of group homes or youth correctional facilities where a child is placed as a result of court order or action of the Division of Family and Youth Services.

Senate adopted 1/29/90.

Senate Judiciary Letter of Intent

Commentary to CSSB 355 (Jud)

The changes to AS 11.41.434(a) are intended to clarify the meaning of two terms used in existing law -- "entrusted to the offender's care by authority of law" and "temporarily entrusted to the offender's care." The amendments are needed as a result of a recent Anchorage case, State v. Carlson, 3AN-S89-7443 Cr., in which the superior court concluded that the term "entrusted to the offender's care by authority of law" did not apply to teachers, and that if the legislature intended the language to apply to persons other than legal guardians, the statute was unconstitutionally vague. The term "temporarily entrusted to the offender's care" is replaced as well, in order to avoid litigating whether that term is unconstitutionally vague.

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The nature of an adult's position of special trust determines the duration of the prohibition against sexual relations between the adult and child. The relationship of special trust between a child and the child's teacher or youth leader continues even during the intervals between classes or formal meetings of the youth group, because there is an expectation of future, ongoing (albeit intermittent) contact between the adult and the child in the context of the relationship of special trust. On the other hand, an adult who volunteers to chaperon a single school dance does not thereby create an open-ended relationship of special trust with all the students who attend the dance; rather, that relationship is limited to the dance and the time before and after the dance when students are arriving and going home.

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Official Business

# Alaska State Legislature

## Senate

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

January 25, 1990

### MEMORANDUM

TO: All Senators

FROM: Senator Jan Faiks *Jan Faiks*  
Senator Paul Fischer *Paul Fischer*

SUBJECT: SB 355 "An Act relating to sexual offenses against children."

SB 355 is before the Senate for consideration today. The Senate Judiciary Committee has held several hearings on this legislation, and recommends that it be replaced with a Judiciary Committee substitute. Members will find attached to this memo a sectional analysis of the substitute.

SB 355 was introduced in response to the indictment brought against an Anchorage teacher for allegedly having sex with a 17 year old student. The teacher was charged with first degree sexual abuse of a minor, an unclassified felony. Under Alaska law, the age of consent is generally 16. However, the law also provides that an adult may not have sex with a 16 or 17 year old if the minor was entrusted to the adult's care "by authority of law." In the Anchorage case, the Department of Law argued that students are placed in a teacher's care by authority of law, making 18 the age of consent for teacher-student sex. The teacher argued that this law only applies to legal guardians and other persons similarly situated. While the Judiciary Committee was considering SB 355, Judge Johnstone dismissed the charges against the teacher, ruling that the statute did not prohibit teachers from having sex with 16 and 17 year old students.

Working closely with the Department of Law, the Judiciary Committee drafted a substitute that closes this loophole in the law. In addition, the bill criminalizes sex between a minor and any adult in a "position of special trust." The committee believes that certain adults, in addition to teachers, are in a position to manipulate 16 and 17 year old minors. These include youth leaders, recreational leaders, scout leaders, athletic managers, coaches, counselors, school

administrators, religious leaders, practitioners of the healing arts, police officers, probation officers, guardians ad litem, babysitters, and substantially similar positions. Accordingly, adults in these categories are prohibited from having sex with minors who are 16 and 17 years old and at least three years younger than the offender. A letter of intent serves to clarify the bill, and provide the kind of guidance to the courts that is obviously missing from the current law.

In addition, the bill imposes a lifetime prohibition on the possession of a teaching certificate on any adult convicted of certain crimes, including sexual abuse of a minor, sexual exploitation of a minor, and indecent exposure to a minor. Five years after a person has completed any jail sentence, probation or parole imposed as a result of the conviction, the person may petition the Professional Teaching Practices Commission for relief from the ban. The PTPC must consider the underlying nature of the crime, as well as any rehabilitation that might have occurred in ruling on the petition.

In drafting this substitute, the Judiciary Committee took care to balance the rights of adults against the need to protect our children. The bill reflects the values of a majority of Alaskans, and provides guidance to the public and to the courts on what activity is simply unacceptable. We urge your support for this essential piece of legislation.

RECEIVED

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

JAN 24 1990  
JAN FAIKS  
SENATE OFFICE  
STATE CAPITOL  
NEW PALM ALASKA 99811  
907 465 3800

MEMORANDUM

January 24, 1990

SUBJECT: Sectional summary of CSSB 355 (Jud) (am)  
(Work Order No. 6-1663H, 1/24/90)

TO: Senator Jan Faiks  
Chair, Senate Judiciary Committee

FROM: Theresa L. Bannister *TB*  
Legislative Counsel

You have requested a sectional summary of the above described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 prohibits an adult from engaging in sexual penetration with a minor, if the adult is the minor's natural parent, stepparent, adopted parent, or legal guardian. Prohibits an adult from engaging in sexual penetration with a person under 16 if the minor at the time of the offense resides in the same household as the adult and the adult is in a position of authority over the minor. Prohibits an adult from engaging in sexual penetration with a person under 16 if the adult occupies a position of special trust in relation to the minor. Deletes certain language in the current statute. These are crimes of sexual abuse of a minor in the first degree and are unclassified felonies.

Section 2 prohibits an adult from engaging in sexual contact with a minor, if the adult is the minor's natural parent, stepparent, adopted parent, or legal guardian. Prohibits an adult from engaging in sexual contact with a person under 16 if the minor at the time of the offense resides in the same household as the adult and the adult is in a position of authority over the minor. Prohibits an adult from engaging

in sexual contact with a person under 16 if the adult occupies a position of special trust in relation to the victim. Prohibits an adult from engaging in sexual penetration with a person who is 16 or 17 years old, and at least three years younger than the adult, if the adult occupies a position of special trust in relation to the victim. Deletes certain language from the current statute. These are crimes of sexual abuse of minor in the second degree and class B felonies.

Section 3 prohibits an adult from engaging in sexual contact with a person who is 16 or 17 years old, and at least three years younger than the adult, if the adult occupies a position of special trust in relation to the minor. This is a crime of sexual abuse of a minor in the third degree and a class C felony.

Section 4 defines "legal guardian" and "position of special trust" for AS 11.41.410 - 11.41.470.

Section 5 creates an exception to the requirement that the Department of Education issue a teacher certificate to every person who meets certain listed requirements. The substance of the exception is contained in sec. 6.

Section 6 prohibits the Department of Education from issuing a teacher certificate to a person who has been convicted of a crime involving a minor under certain statutes of the state that are listed in the section, or under a law in another jurisdiction with elements substantially similar to the listed state statutes. Five years after an unconditional discharge from the conviction, allows the person to petition the department to issue the certificate in spite of the conviction. Indicates what factors the department is to consider when making its decision.

Section 7 directs the Commissioner of Education or the Professional Teaching Practices Commission to revoke for life the certificate of a person who has been convicted of a crime involving a minor under certain statutes of the state that are listed in the section, or under a law in another jurisdiction with elements substantially similar to the listed state statutes. Five years after an unconditional discharge from the conviction, allows the person to petition the commission for recertification. Indicates what factors the commission is to consider when making its decision.

Senator Jan Faiks  
Page 3  
January 24, 1990

Section 8 defines "unconditional discharge" for AS 14.20.010  
- 14.20.215.

Section 9 states that the license issuance prohibition contained in sec. 6 and the mandatory license revocation contained in sec. 7 do not apply when the crime occurred before the effective date of the Act.

If I can be of further assistance, please advise.

TBC:gc  
G13/067

**SEX OFFENSES: CSSB 355 (Judiciary)<sup>am</sup>**  
**By Age of Offender and Classification of Felony**

DESCRIPTION OF OFFENSE	Any Age	18 Or Older	16 Or Older
Victim: Under 13 Relationship: None	Penetration: Unclass. Contact: B felony		
Victim: 13, 14, 15 + 3 yrs younger Relationship: None			Penetration: B felony Contact: C felony
Victim: Under 16 Relationship: Same household & offender in position of authority		Penetration: Unclass. Contact: B felony	
Victim: Under 16 Relationship: "Position of special trust"***		Penetration: Unclass. Contact: B felony	
Victim: 16 or 17 + 3 yrs younger Relationship: "Position of special trust"***		Penetration: B felony Contact: C felony	
Victim: Under 18 Relationship: Parent or "legal guardian"***		Penetration: Unclass. Contact: B felony	
Victim: Any Age Relationship: Ancestor, descendant, brother, sister, uncle, aunt, nephew, niece		Penetration: C felony	
Victim: Any Age Relationship: None	Pen./No Consent: Unc. Con./No Consent: B		

\* "Legal guardian" means a person who is under a duty to exercise general supervision over a minor as a result of a court order, statute, or regulation, and includes foster parents and staff members and other employees of group homes or youth correctional facilities where a child is placed as a result of court order or action of the Division of Family and Youth Services.

\*\* "Position of special trust" means a youth leader, ~~recreational leader~~, scout leader, athletic manager, coach, teacher, counselor, school administrator, religious leader, <sup>doctor, nurse, psychologist</sup> practitioner of the healing arts, police officer, probation officer, guardian ad litem, babysitter, or substantially similar position.

**SEX OFFENSES: EXISTING LAW**  
By Age of Offender and Classification of Felony

DESCRIPTION OF OFFENSE	Any Age	18 Or Older	16 Or Older
Victim: Under 13 Relationship: None	Penetration: Unclass. Contact: B felony		
Victim: 13, 14, 15 + 3 yrs younger Relationship: None			Penetration: B felony Contact: C felony
Victim: Under 16 Relationship: Same household & offender in position of authority		Penetration: Unclass. Contact: B felony	
Victim: Under 16 Relationship: Temporarily entrusted to offender's care		Penetration: Unclass. Contact: B felony	
Victim: Under 18 Relationship: Entrusted to offender's care by authority of law		Penetration: Unclass. Contact: B felony	
Victim: Under 18 Relationship: Son or daughter (all kinds)		Penetration: Unclass. Contact: B felony	
Victim: Any Age Relationship: Ancestor, descendant, brother, sister, uncle, aunt, nephew, niece		Penetration: C felony	
Victim: Any Age Relationship: None	Pen./No Consent: Unc. Con./No Consent: B		

# FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: "An Act relating to sexual offenses  
against children."  
Sponsor: Senator Fischer  
Requestor: \_\_\_\_\_

Agency Affected: Department of Corrections  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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)**

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

**POSITIONS:**

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

**ANALYSIS : (Attach a separate page if necessary)**

This legislation would have minimal, if any, impact on the Department of Corrections.

*Susan E. Knighton*

Prepared by: Susan E. Knighton, Director  
Division: Administrative Services

Phone: 465-3376  
Date: 01-12-90

Approved by Commissioner: *James H. Mohrney-Barnett*  
Agency: Department of Corrections

Date: 01-12-90

**Distribution (by preparer):**

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

Changes in CS SB 355 (JAO)  
have no fiscal impact.  
This fiscal note is  
appropriate.

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: Sexual offenses against children  
 Sponsor: Fischer  
 Requestor: Senate Judiciary  
 Agency Affected: Education  
 BRU: \_\_\_\_\_  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

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

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

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

) Changes in CS SB 355 (Jud) have no fiscal impact. This fiscal note is appropriate. *CJC*

Prepared by: Mary Hakala Phone: 465-2800  
 Division: Commissioner's Office Date: 1/16/90  
 Approved by Commissioner: William G. Demmert Date: 1/16/90  
 Agency: Education

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

**FISCAL NOTE**

**REQUEST:**

Revision Date: January 24, 1990  
Title: "An Act relating to... sexual  
penetration ... contact with minors..."  
Sponsor: Senate Judiciary  
Requestor: Senate Judiciary

Agency Affected: Department of Law  
BRU: Prosecution  
Components: All

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

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

**ANALYSIS : (Attach a separate page if necessary)**

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
Division: Administrative Services Date: January 24, 1990  
Approved by Commissioner: Richard I. Pegues / FOR /  
Douglas B. Bailly, Attorney General Date: January 24, 1990  
Agency: Department of Law

**Distribution (by preparer) :**

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 355 (JUD)

The Committee Substitute for SB 355 makes the following changes to AS 11.41 and AS 14.20.

Section 1 makes it an unclassified felony (up to 30 years with an eight year presumptive sentence) for a person "in a position of special trust with the victim" to engage in sexual penetration with a minor under the age of 16.

Section 2 makes it a class B felony (up to ten years) for a person in a position of special trust with the victim to engage in sexual penetration with a 16 or 17 year old who is at least three years younger than the offender, or to engage in sexual contact (touching the genitals, buttocks or female breasts) with a minor under the age of 16.

Section 3 makes it a class C felony (up to five years) for a person in a position of special trust to engage in sexual contact with a 16 or 17 year old who is at least three years younger than the offender.

Section 4 defines "position of special trust" as youth leaders, recreational leaders, scout leaders, athletic managers, coaches, teachers, counselors, school administrators, religious leaders, practitioners of the healing arts, police officers, probation officers, guardians ad litem, babysitters, and substantially similar positions.

Sections 5, 6, and 7 provide that a person convicted of a sex offense against minors is barred for life from teaching; however, the person may petition the PTPC for a certificate five years after their unconditional discharge from the conviction (i.e. five years after they have completed any sentence including years spent on parole). PTPC must consider the underlying nature of the crime as well as any rehabilitation that might have occurred in deciding whether or not to grant the certificate.

The changes to AS 11.41.434(a) are intended to clarify the meaning of two terms used in existing law -- "entrusted to the offender's care by authority of law" and "temporarily entrusted to the offender's care." The amendments are needed as a result of a recent Anchorage case, State v. Carlson, 3AN-589-7443 Cr., in which the superior court concluded that the term "entrusted to the offender's care by authority of law" did not apply to teachers, and that if the legislature intended the language to apply to persons other than legal guardians, the statute was unconstitutionally vague. The term "temporarily entrusted to the offender's care" is replaced as well, in order to avoid litigating whether that term is unconstitutionally vague. Until the court's decision in State v. Carlson, it was the department's view the existing law already addressed these offenses. Consequently, there should not be a fiscal impact for the Department of Law.

# Opinion

**A** sudden legislative passion for outlawing sex between teen-agers and teachers has struck in Alaska and in Washington. In both states, the effective goal is to raise the age of consent from 16 to 18.

New legislation in Alaska results from the controversial case of Satch Carlson, a teacher and newspaper columnist, who had sexual relations with a female high school student.

Not  
too  
fast

Although the respective proposals have major differences, the legislation proposed in both states attempts to broaden the prohibition against sexual relations with teen-agers to cover more people than the teen-agers' own teachers. In Washington, the bill covers only teachers,

but broadens the prohibition of the code of conduct for the state's teachers so that they would be prohibited from sexual relations with not only their own students but any other students under 18.

The Alaska bill, introduced principally by Sen. Paul Fischer, R-Soldotna, attempts to bar sexual activity with sub-18 teens by adults in any child custodial capacity.

The Fischer proposal would apply to the likes of recreation leaders, probation workers and counselors. By extension, it seems likely that it would apply to a private employer in certain cases, such as if a student is employed as part of a school-sponsored work-study program. It even covers licensed hearing aid dealers, as The Associated Press pointed out.

The idea, in the words of the bill's backers, is to establish a hands-off zone between school-age teen-agers and anyone who works with them "in a special position of trust."

This is a good idea. No one argues against the intent. But there is need to mull its ramifications, its scope and the penalties proposed.

The legislators, who so rarely rush other legislation, should not rush this until they have considered all that it might do.

It is designed to convince adults who work with teen-agers that the risk of going to prison or being severely fined is too great to take chances.

It will also have a chilling effect, however, on others, perhaps: effective teachers whose personalities allow for a certain amount of innocent touching with students; coaches who must often help students in pseudo-parental capacities while traveling away from home for athletic events; any staff members or parents who take charge of students on field trips.

The potential for abuse by teen-agers would be greatly magnified in cases, albeit few in number, in which a student falsely accuses a teacher or other youth worker of taking advantage of them. It happens. The victims of such false scandal often lose their jobs or, even when cleared, find they must change towns and jobs to get away from the taint of scandal.

This bill would add the threat of a five-year sentence or a \$50,000 fine.

The goal of Senate Bill 355 is worthwhile. The question is whether it goes too far in a good cause. The Alaska Legislature should be willing to take enough time to be sure that this approach is the best approach before proceeding.



# ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

326 Fourth Street • Suite 408 • Juneau, Alaska 99801 • (907) 586-9702

LEADERSHIP  
FOR LEARNING

## RESOLUTION 89-90-5A SEXUAL MISCONDUCT OF EDUCATORS

The Alaska Association of School Administrators requests the Alaska Legislature to support efforts to reduce sexual misconduct of educators.

WHEREAS, the problem of sexual abuse and sexual exploitation of children is a national problem on the rise, and

WHEREAS, there is also an increase on the national level in the number of reports involving sexual abuse and exploitation of students by educators, and

WHEREAS, the education profession believes that any sexual conduct between an educator and a student is in violation of professional standards, and

WHEREAS, various gaps exist in the law permitting an educator, who has been convicted of sexual abuse and /or has had a certificate revoked due to sexual conduct with a student, to move to another state for purposes of obtaining an educational position, and

NOW, THEREFORE, BE IT RESOLVED, that the Alaska Association of School Administrators supports all efforts to minimize the risk of a sex offender from being hired by any school district, and to that end supports SB 355.

BE IT FURTHER RESOLVED, that the Alaska Association of School Administrators supports all efforts to minimize the possibility of sexually abusive educators remaining in their positions, and to that end supports efforts by the Department of Education and the Professional Teaching Practices Commission to establish reporting requirements in situations where an educator has knowledge that sexual misconduct involving an educator has occurred.

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

Position Paper  
SB 355- Sexual Offenses Against Children

The Association of Alaska School Boards (AASB) strongly supports SB 355 regarding sexual offenses against children, and urges passage of SB 355.

AASB is committed to the safety and well-being of all Alaska's students regardless of age. The absence of laws defining sexual contact by school district employees and volunteers needs to be addressed.

The recent public outcry against sexual abuse in the school environment has eroded public confidence in the schools. This bill carries two important messages: Sexual abuse will not be tolerated in public schools, and sexual offenders will be eliminated from the teaching pool. The public, who entrust their children in the hands of our public schools, need assurances that their kids will be safe while attending school.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the )  
Grand Jury for the Third )  
Judicial District at Anchorage )  
for the Term of Proceedings )  
Commencing in January, 1990. )  

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PART I OF THE GRAND JURY  
INVESTIGATION CONCERNING  
REPORTING OF SEXUAL ABUSE  
OF SCHOOL CHILDREN

March 5, 1990

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## PREAMBLE

Since January 24, 1990, the Grand Jury has investigated the conduct of public organizations and individuals in response to a complaint of sexual misconduct against Mr. Gordon C. Carlson, formerly a teacher with the Anchorage School District. The Grand Jury has also considered evidence of other cases from the Anchorage area, and from other areas of Alaska, which raise related issues of public concern.

The Grand Jury has met for a total of 22 days, has heard testimony from 71 separate witnesses, and has received 120 exhibits, comprising several thousand pages of printed and written material.

The evidence heard by the Grand Jury shows that existing statutes, regulations, policies and procedures governing the reporting and investigation of sexual abuse and sexual exploitation of school children are inadequate to protect those children. The findings of this Grand Jury should apply not only to sexual abuse and sexual exploitation of school children, but to all children and all types of child abuse and neglect. The Grand Jury finds that public safety and welfare will best be served by an immediate report to the public recommending changes in these existing rules. The Grand Jury also finds that it has both the right and duty to make such a report under Article I, Section 8 of the Alaska Constitution.

The Grand Jury is aware that Criminal Rule 6.1 contemplates delay in publication of its report to allow review and possible litigation by persons who believe they are unjustly criticized. To avoid this delay, the Grand Jury has chosen to issue its report in separate parts. Part I identifies specific deficiencies in current statutes, regulations, policies and procedures relating to the reporting and investigation of sexual misconduct with school children. It also contains recommendations for changing these rules. Subsequent parts of this report will address other issues.

No criticism of any identifiable person is intended in Part I. The Grand Jury believes that all interested parties will agree that the matters contained in Part I should be shared with the public immediately so that recommendations in this area of vital public concern may be reviewed, debated and implemented without delay.

PART I

A. OBJECTIVES OF REPORTING RULES.

The Grand Jury believes that school children may be harmed by adults or other children who exploit them for personal sexual gratification. Consequently, the primary objective of all rules in this area must be to prevent this potentially harmful conduct, whether it occurs in school, at home, or elsewhere in the community. Effective rules must therefore provide for the earliest possible identification of sexual offenders so that they may be denied access to their victims, and to other potential victims in the future. It is equally important that such rules encourage early identification of actual victims, so that they may receive appropriate counselling or other treatment to remedy the harm they have suffered. This is necessary whether or not the offender is ever specifically identified or disciplined.

5  
2  
The Grand Jury finds that these considerations require rules that mandate EARLY REPORTING.

Other important interests must also be accommodated. The Grand Jury has received expert testimony that children who are victims of sexual misconduct will most often initially deny that such misconduct has occurred, or will minimize its frequency and seriousness. The Grand Jury recognizes that teachers, school nurses, and school administrators who deal regularly with children may have the ability, due to their training and experience, to quickly recognize when a child is

troubled. However, these professionals do not necessarily have the specific training required to elicit from the child reliable and detailed information concerning sexual offenses. Nor can these professionals be expected to have training in the legal rules of investigation or interrogation necessary to gain evidence from victims or suspected offenders that would be admissible in court. The state's Division of Family and Youth Services (DFYS) has personnel specifically trained to question children about sexual offenses. Law enforcement agencies such as the Anchorage Police Department (APD) and the Alaska State Troopers (AST) have officers trained in the investigation of sexual offenses against children, and are required by law to do so.

+ }  
The Grand Jury finds that effective reporting rules must therefore clearly state that ALL INVESTIGATION OF THESE MATTERS IS THE RESPONSIBILITY OF DFYS AND LAW ENFORCEMENT AGENCIES.

The Grand Jury has heard testimony that school personnel have provided valuable assistance and cooperation to DFYS and law enforcement agencies in past cases of suspected sexual abuse of school children. This assistance has materially aided in the efficient resolution of such cases. The Grand Jury believes that most teaching professionals and administrators have both a personal and professional interest in continuing to assist whenever possible.

Therefore, the Grand Jury believes that effective

reporting rules should require SCHOOL PERSONNEL TO COOPERATE WITH INVESTIGATING AGENCIES, AND SHOULD PROTECT THESE PERSONNEL.

The child who may have been victimized must be protected from public exposure. The alleged offender must be protected from damage to his or to her personal or professional reputation due to public disclosure of unfounded complaints. Persons who report must be assured that their identities will be kept confidential if possible, and informed if that is not possible.

The Grand Jury finds that reporting rules should MAINTAIN THE MAXIMUM CONFIDENTIALITY CONSISTENT WITH EFFECTIVE INVESTIGATION.

Parents have a right to be and should be informed that their children may have been victimized by others, and to be kept informed of what action is being taken by investigating agencies. The employer of a suspected offender may have a right and duty to remove that person from a position of access to children while investigation is in progress, and to terminate employment of that person if accusations are proven true. Labor agreements which protect a suspected offender from unwarranted employment action must be considered. However, labor agreements should not be allowed to impede a child abuse investigation. Public licensing authorities charged with responsibility to grant or revoke certificates of professionals suspected of sexual misconduct must be given sufficient information to act.

The Grand Jury finds that reporting rules should

REQUIRE TIMELY SHARING OF INFORMATION WITH THOSE HAVING A LEGITIMATE NEED FOR IT.

B. EXISTING REPORTING RULES AND RECOMMENDATIONS.

1. Alaska Statutes. The Grand Jury finds that the provisions of AS 47.17.020 -.070, as presently written, do not effectively implement the purposes stated in AS 47.17.010 in the area of sexual misconduct with school children.

(a) "Cause to believe". This term is not defined in the reporting statutes. While it may have a particular meaning to those trained in the law, and may even designate a particular level of information sufficient to support enforcement in most situations, it could be confusing and inexact to a person faced with a decision to report or to delay reporting until more information becomes available. The absence of a readily available definition could also lead to a claim or belief that one charged with reporting must investigate the truth or falsity of information to a particular degree of personal belief before reporting it.

(b) "Child abuse or neglect." This term is defined in AS 47.17.070. However, as regards sexual misconduct, it is possible to interpret the existing definitions to mean that only criminal acts are reportable. It is also possible to read the definitions to require or permit reporting of sexual misconduct that is not otherwise criminal. Confusion about what conduct is reportable could cause nonreporting or permit delay while an investigation is conducted to establish evidence of violation of

a particular criminal statute before a report is made. While the existing definitions may permit enforcement, clarification would make the statutes more effective.

Specific definitions will limit or remove the uncertainties of individual judgment. Persons who might otherwise be tempted to avoid or delay reporting due to conflicting personal or professional concerns will have such temptations removed. Specific definitions will help clarify that reporting is the individual responsibility of the person who first receives sufficient information. This will prevent passing reporting responsibility to supervisors or to groups, which could cause reports to be delayed or miscoordinated. The Grand Jury also believes that specific definitions in the statutes themselves will increase public confidence that reports will be timely made. It should also remove possible causes of mistrust between those who must report and those to whom such reports must be made.

Therefore, the Grand Jury RECOMMENDS that the legislature amend the reporting statutes to specifically define the terms "cause to believe" and "child abuse and neglect."

Consistent with its belief that the earliest possible reporting is desirable, the Grand Jury FURTHER RECOMMENDS that the legislature define "cause to believe" so that reports will be made with the least amount of information consistent with practical investigation and due process requirements.

The Grand Jury MAKES NO RECOMMENDATION on what types

of sexual misconduct should be made criminal, or reportable if noncriminal, believing such decisions best left to the legislature's discretion.

(c) "Person responsible for the child's welfare."

This phrase, included in the definition of "child abuse and neglect" found in AS 47.17.070, could be interpreted to exclude school teachers of 17 year-old high school students under the theory that, since such students are not required by law to attend school beyond their 16th birthdays, teachers of such students are not "legally" responsible for their welfare. Such an interpretation would mean that a teacher who engaged in sex with one of his or her 17 year-old students would not be reported. If the legislature intends that such conduct by teachers should be reported, this definition should be modified to specifically cover teachers of students between 16 and 18 years of age.

The Grand Jury therefore RECOMMENDS that the legislature amend the definition of "person responsible for the child's welfare" in AS 47.17.070(8) to clarify legislative intent.

(d) "Immediately." The Grand Jury believes that this term in AS 47.17.020 is sufficiently clear to achieve its purpose.

(e) Persons required to report. The Grand Jury finds that, if AS 47.17.020 is to be effective in requiring early reporting, this definition should be amended to specifically

state that the individual first receiving sufficient information must immediately report, and that this responsibility is not discharged by passing the information to a supervisor or administrator within the same organization.

The Grand Jury RECOMMENDS that the legislature amend this section of AS 47.17.020 as shown above.

(f) Training. AS 47.17.022 does not appear to apply to local school district personnel who are charged with the duty to report. The Grand Jury has received evidence leading it to believe that such personnel would benefit from more structured and more frequent training on their specific rights and responsibilities under the reporting statutes.

The Grand Jury therefore RECOMMENDS that the legislature include all local public and private, primary and secondary school personnel under AS 47.17.022.

The Grand Jury FURTHER RECOMMENDS that this training be provided on an annual basis.

(g) Confidentiality. AS 47.17.040 does not appear to permit DFYS or law enforcement agencies to share some critical investigative information with non-offending parents or with school district employers or potential employers, or with professional licensing agencies such as the Professional Teaching Practices Commission (PTPC). The Grand Jury believes that strictly controlled sharing of some of this information with persons and organizations such as those mentioned, but who might not be "governmental agencies with child-protection

functions," should be legitimized if possible. The Grand Jury believes that such sharing would improve cooperation among parents of victims, employers of suspected sexual offenders, investigating agencies and professional licensing agencies. From evidence it has heard, the Grand Jury believes that inability to share such information could cause competition for the exclusive right to possess and use it for legitimate but narrow purposes, resulting in delayed reporting and diminished cooperation.

The Grand Jury RECOMMENDS that the legislature amend AS 47.17.040 to permit sharing of critical investigative information with a limited number of persons or organizations that have a legitimate need for it.

(h) Immunity. Whether or not AS 47.17.050, as a matter of law, provides civil and criminal immunity to those who delay reporting but eventually report, the Grand Jury believes that any uncertainty is harmful to the overall reporting scheme. The Grand Jury further believes that the statute should state that it will protect from liability a person who non-maliciously reports information that does not amount to "cause to believe," or who mistakenly but non-maliciously reports potentially harmful conduct that does not constitute "child abuse or neglect." The Grand Jury finds that clarification of these areas will encourage reporting.

The Grand Jury RECOMMENDS that the legislature amend this statute to clarify the protection it provides to potential

reporters.

2. Alaska Administrative Code. The Grand Jury has been advised that the Alaska Administrative Code (AAC) has recently been amended to specifically provide that sexual activity between teachers and students is a violation of the Code of Ethics and Teaching Standards (20 AAC 10.020). The Grand Jury has also been advised that all certificated personnel subject to that code are now required to report such sexual activity to the Professional Teaching Practices Commission (PTPC), which has the authority to revoke or suspend teacher certification in this state for violation of the code. From testimony it has received, the Grand Jury believes that required mandatory reporting of such activity is in the best interests of the public and will be welcomed by teachers who are justifiably proud of their profession and its high ethical standards. The Grand Jury further believes that a mandatory reporting requirement will materially assist the PTPC to perform its duties, and will benefit school districts both in Alaska and in other states where offending teachers might seek employment.

However, the Grand Jury has also been advised that there is currently no statute or regulation requiring or clearly permitting law enforcement personnel to provide information about sexual misconduct between teachers and their minor students to the PTPC.

Therefore, the Grand Jury RECOMMENDS that the legislature enact legislation requiring that law enforcement

personnel report to the PTPC information concerning sexual misconduct by teachers that is in violation of the Code of Ethics and Teaching Standards, and clearly defining individual rights, responsibilities, and immunities in this regard.

The Grand Jury FURTHER RECOMMENDS that the legislature provide by statute or regulation that the PTPC automatically share information concerning teachers disciplined for such violations with school districts in Alaska, and with teacher licensing authorities in other states.

The Grand Jury FURTHER RECOMMENDS that the legislature provide adequate funding for the PTPC to carry out its increased responsibilities.

3. Anchorage School District (ASD) Policies and Procedures.

The Grand Jury finds that existing ASD policies concerning reporting of sexual abuse of school children merely restate current statutes in that area. Consequently, these policies suffer from the same deficiencies as do the statutes.

From the evidence received by the Grand Jury, it appears that there are a few written procedures currently available to educators or administrators in ASD secondary schools. While personnel in primary schools have more written procedures in place dealing with the area of sexual misconduct against students, even these do not clearly establish a single standard method for reporting, but may be interpreted to require

different procedures depending on whether the alleged offender is or is not an ASD employee.

The Grand Jury believes that, regardless whether state statutes in this area are clarified, specific written policies and procedures must be distributed to all educators and administrators having a duty to report sexual misconduct against school children. In the absence of such written guidance, school personnel may have felt and may continue to feel dependent upon verbal interpretations and instructions from their supervisors in determining their own reporting responsibilities. This may have contributed to past uncertainty and anxiety among teachers and administrators concerning what information is reportable, when, to whom and by whom, which complaints should be handled as disciplinary or personnel matters and which are reportable as "child abuse and neglect." The Grand Jury believes that the absence of written procedures may also have, and may continue to cause uncertainty within the schools, within DFYS and other state agencies, among law enforcement officers, among parents, and within the community as to what is being reported, to whom, when, and for what purpose.

The Grand Jury has received testimony indicating that the Anchorage School District has already begun to develop new policies and procedures in this important area.

However, the Grand Jury finds that each group and public organization having a legitimate interest in the success of new reporting policies and procedures must participate in

formulating them, and that these groups and organizations should share joint responsibility for their approval.

Therefore, the Grand Jury RECOMMENDS that the Anchorage School Board, a public body directly responsible to the community, appoint one of its members to chair a committee charged with the responsibility to develop comprehensive, workable policies and procedures covering the entire area of reporting and investigation of sexual misconduct against school children. The recommendations of this committee should be submitted to the school board for approval and implementation.

The Grand Jury FURTHER RECOMMENDS that this committee be made up of the following persons:

One teacher currently teaching in a primary school.

One teacher currently teaching secondary students.

One parent of a primary school student.

One parent of a secondary school student.

One local high school student.

One school nurse.

One intake worker from DFYS.

One local Assistant Attorney General who regularly handles child protection cases.

One local Assistant District Attorney who regularly prosecutes sexual offenses against children.

One ASD administrator who regularly handles labor relations.

One representative of the Anchorage Education Association.

One representative of Standing Together Against Rape (STAR) or a similar victim advocacy organization.

One investigator from the Anchorage Police Department who regularly handles investigation of sexual crimes against children.

One investigator from the Alaska State Troopers who also regularly does investigations of sexual crimes against children.

One community representative who has no connection with any of the other represented agencies and who currently has no children in Anchorage schools.

#### 4. Statewide Policies and Procedures.

The Grand Jury has heard evidence that there are currently no standard policies and procedures guaranteeing a unified response by state agencies, local law enforcement authorities, and educators throughout Alaska to the problems associated with child abuse and neglect. The Grand Jury believes that this lack of standardization has unnecessarily frustrated effective cooperation in several cases. The Grand Jury further believes that standardized statewide policies and procedures will eliminate wasteful and divisive inconsistencies in training, reporting, and investigation practices.

Therefore the Grand Jury RECOMMENDS that the Governor of the State of Alaska immediately charge the Commissioner of the Department of Education, the Commissioner of the Department of Health and Social Services, the Commissioner of the Department of Public Safety, and the Attorney General with the joint