

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6346 SENATE • JUDICIARY •

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conscious of some wrongdoing. See, e.g., Speidel v. State, 460 P.2d 77, 78 (Alaska 1969); Hentzner v. State, 613 P.2d 821 (Alaska 1980); State v. Rice, 626 P.2d 104 (Alaska 1981); AS 11.81.600. The amendment adds the mental state of "criminal negligence" to the crime of releasing confidential information, and classifies the offense as a class B misdemeanor.

Section 12: [AS 47.17.050(a)] Under current law, persons who make good faith reports of child abuse are immune from any criminal or civil liability as a result of making the report. The amendment clarifies that a person who does not comply with the reporting requirement, for example by delaying making a report of the abuse for many months, is not immune from either civil or criminal liability based on the delay in making the report.

Section 13: [AS 47.17.050(b)] Consistent with the position taken by the court in State v. Howland, 464 A.2d 1076 (New Hampshire 1984), the amendment provides that abusers who report the abuse are not immune from either civil or criminal liability.

Section 14: [AS 47.17.064(a)] As described under section 1, the "cause to believe" language is changed to "reasonable cause to suspect."

Section 15: [AS 47.17.068] The amendment clarifies that criminal penalties may be imposed for failing to comply with the reporting requirements of AS 47.17.020 or 47.17.023 where a person knows of the circumstances giving rise to the need for a report.

Section 16: [AS 47.17.070(2)] In order for the state to continue to receive federal money under the Child Abuse Prevention and Treatment Act, the definition of "child abuse or neglect" must require the reporting of mental injury. The amendment adds this language to the statute. Consistent with the amendment discussed in section 5, the definition of child abuse or neglect has been changed to apply to abuse committed by any person. (Under current law, abuse committed by persons not responsible for a child's welfare must be reported to the police; the effect of the amendment is to require all reports to be made to the department.)

Section 17: [AS 47.17.070(3)] Because foster parents are given reimbursement for their services, rather than compensation, under current law foster parents are arguably not required to report abuse or neglect. The effect of the amendment would be to clarify that all child care providers, including foster parents, must report child abuse or neglect.

Section 18: [AS 47.17.070(9)] Since mental health counselors are in a position to recognize and report the child abuse or neglect, they have been added to the definition of practitioner of the healing arts.

Section 19: [AS 47.17.070] The amendment provides definitions for a number of currently undefined terms in the statute as follows:

AS 47.17.070(11): Under section 11, it is a crime to release confidential information "with criminal negligence." The definition of "criminal negligence" is set out in Title 11, and the amendment cross references this definition.

AS 47.17.070(12): In order to clarify the language of current law, a definition of "immediately" is set out.

AS 47.17.070(13): In order to clarify the language of current law, a definition of "maltreatment" is set out. Under the definition, practitioners of the healing arts would be required to make a report to the department when a child is born with a controlled substance under AS 11.71 in the child's blood or urine.

AS 47.17.070(14): A definition for "mental injury" is set out. The definition limits reportable mental injury to situations where there is an observable and substantial impairment in the child's ability to function. The definition is based on the mandatory requirements of federal law discussed under section 16.

AS 47.17.070(15): A definition of "reasonable cause to suspect" is set out; the definition is based on the rulings in People v. Cavaiani, 432 N.W.2d 409 (Mich. App. 1988) and State v. Hurd, 400 N.W. 2d 42 (Wis. App. 1986).

AS 47.17.070(16): The term "school district" is used in section 7; a definition of the term is set out in this amendment.

AS 47.17.070(17): In order to clarify the language of current law, a definition of "sexual abuse" is set out.

STEVE COWPER, GOVERNOR

**DEPARTMENT OF PUBLIC SAFETY**

**COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT**

P.O. BOX N  
JUNEAU, ALASKA 99811-1200  
PHONE: (907) 465-4356

OFFICE ADDRESS: 450 WHITTIER STREET

January 23, 1990

William Frick, President  
Anchorage School Board  
2961 Drake Drive  
Anchorage, AK 99508

Dear Mr. Frick:

The Council on Domestic Violence and Sexual Assault (Council) has reviewed the Draft Revised Child Abuse and Neglect Reporting Procedures that will go to second reading on February 12, 1990. We have serious concerns about certain provisions of the procedures.

The major concern centers around using a team approach "in cases where an individual is uncertain as to whether or not cause to believe child abuse or neglect has occurred" (IVB. beginning on page 6). We believe that it is in the best interest of the child that investigations regarding child abuse and neglect be conducted by individuals trained to do investigations. Assistant principals, nurses, counselors or psychologists are not in any better positions than classroom teachers to assess for abuse or neglect. It is very difficult for a child to disclose abuse, particularly when the abuser is a parent. If an investigation is not well conducted, it could easily be harmful to the child as well as damaging to the case.

It is also important that the number of interviews in which a child is required to participate is kept to a minimum. The process of disclosure is painful and traumatic to the child. This should not be exacerbated by additional, unnecessary interviews.

We recommend that if there is a suspicion of child abuse and neglect, reports are made immediately and directly to the Department of Health and Social Services, Division of Family and Youth Services (DFYS) or the police. They are the best qualified to determine if child abuse or neglect has occurred.

We are also concerned that the draft policies do not address circumstances when DFYS or the police must interview a child on school district premises. Schools are often the only location DFYS and police can interview a child without undue pressure from parents. Policies should allow DFYS and police to interview a child at school without notifying a parent. Prior notification to a parent could be detrimental to the investigation.

Mr. William Frick

Page 2

January 23, 1990

We think that the process for reporting that you have delineated is excellent, particularly the requirements for written reports. The requirements for training are also excellent.

Thank you for considering our comments. Please contact Barbara Miklos, Executive Director of the Council if you have any questions about our comments.

Sincerely,

*Bjmf*  
*Mary Pete*  
Mary Pete  
Chair

DEPARTMENT OF  
PUBLIC SAFETY

BILL NO: SB 450

DATE: February 12, 1990

TITLE: An Act relating to child  
abuse and neglect

CONTACT: Barbara Miklos  
465-4356

The Council on Domestic Violence and Sexual Assault supports SB 450, which clarifies and strengthens the child abuse reporting statute. We believe that this legislation will be instrumental in protecting children in Alaska.

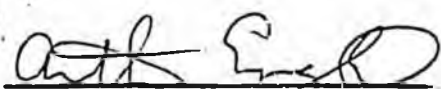
Among the provisions which the Council particularly supports is clarification that persons who report are not intended to conduct investigations prior to making reports; rather, reports are required when there is a reasonable suspicion of child abuse or neglect. This is clarified in the purpose section, as well as by changing "reasonable cause to believe" to "reasonable cause to suspect".

The Council supports adding paid employees of substance abuse treatment or prevention programs and mental health counselors to the list of mandatory reporters. There is a high correlation between substance abuse and family violence; therefore, employees of substance abuse programs are likely to have cause to suspect child abuse or neglect. Now that federal confidentiality requirements for substance abuse treatment providers have been changed to allow the reporting of child abuse or neglect, the barrier to adding them to the list of reporters has been removed.

The Council supports making all reports to the Department of Health and Social Services, and requiring the Department to refer to law enforcement agencies cases that do not involve family members, where criminal conduct is involved, or where abuse or neglect results in the need for medical treatment of the child. We know that the previous requirement that some reports be made to law enforcement officials was confusing for some people. This section also clarifies the cases that the Department of Health and Social Services must refer to law enforcement agencies for their investigation.

Another important provision of this bill is the proposed new section, "Duties of School Officials" (proposed AS 47.17.027) which requires school officials to permit the child to be interviewed at school without prior notification of, or permission from, the child's parent, guardian or custodian. We know that the lack of such authority has impeded the investigation of reports, and caused unnecessary friction between school officials and investigators.

In summary, the Council believes the proposed amendments to the Child Abuse Reporting Law strengthen and improve protections for children. We urge the passage of this bill.



Arthur English  
Commissioner

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
Title: An Act relating to child abuse and neglect BRU: Council on Domestic Violence and Sexual Assault  
Sponsor: Senate Judiciary Component: \_\_\_\_\_  
Requestor: Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

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 -
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REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

SB 450 requires that school districts file copies of their training curricula with the Council on Domestic Violence and Sexual Assault and may seek technical assistance of the Council. The Council would be pleased to provide assistance but, without additional funding, it will have to be by mail or phone.

Prepared by: Barbara Miklos, Executive Director  
Division: Council on Domestic Violence and Sexual Assault  
Approved by Commissioner: Arthur English  
Agency: Department of Public Safety

Phone: 465-4356  
Date: 2/12/90  
Date: 2-12-90  
Page 1 of 1

*Handwritten:* 2/12/90

**POSITION PAPER**

**SENATE BILL NO. 450**

For an Act entitled: "An Act relating to child abuse and neglect."

**PROVISIONS OF THE BILL**

SB 450 sharpens the child protection reporting law by clarifying the ambiguities that have arisen in the existing law and by adding new provisions that address frequently occurring problems with the implementation of the existing law.

*CLARIFICATION OF THE PURPOSE OF REPORTING.* New language directs reporters not to investigate whether a report of child abuse or neglect is true or not, but to report when there is "reasonable suspicion of child abuse or neglect." Reporters who conduct investigations may cause a delay in service delivery, may not be skilled as investigators, and may subject the child to multiple interviews. The Department supports this provision.

*REQUIRES ALL INCIDENTS OF CHILD ABUSE OR NEGLECT TO BE REPORTED TO ONE CENTRAL AGENCY.* Under current law, the Department of Health and Social Services receives reports of harm to children when the harm is caused by someone responsible for the child's welfare. Present law provides for law enforcement agencies to receive reports of harm to children when the harm is caused by someone not responsible for the child's welfare. In practice, however, the Department currently receives many reports of harm to children that could go directly to law enforcement and then refers to a law enforcement agency the same day the report is made.

This bill simplifies the reporting requirement by providing that all reports be made to the Department and requires the Department to use its present practice of informing law enforcement immediately under specified conditions. At this time, no agency consolidates reports of harm to children caused by someone not responsible for the child's welfare. This provision is easier for reporters making a report. The Department supports this provision.

*EXPANDS AND CLARIFIES THE LIST OF REQUIRED REPORTERS.* This provision clarifies that foster parents, whether compensated

or only reimbursed, are required to report and adds mental health counselors and paid employees of an alcohol or drug abuse counseling center to the list of required reporters. The Department supports this provision.

*INCLUDES MENTAL INJURY AND MALTREATMENT AS A TYPE OF HARM.* "Mental injury" is added to the definition of child abuse or neglect. This is a federal requirement for the receipt of certain federal funds. Separate pending legislation (HB 175) also addresses this requirement and is in its last committee of referral. The Department already receives these reports, but cannot receive federal money without this statutory language being added.

Reporting maltreatment is a new requirement. The definition of maltreatment is overly broad and fails to focus clearly enough on the impact on the child. The Department supports the intent of this new provision but suggests an amendment:

"maltreatment" means harm or threat to a child's welfare, and includes the situation in which a controlled substance, as defined in AS 11.71.900, is found in a newborn's blood or urine, with the exception of a controlled substance whose presence in the child is the result of medical treatment administered to the mother or child.

*SPECIFIES ON WHAT BASIS ONE REPORTS.* The new provision changes the language "cause to believe" as the precursor to reporting a situation involving a child who may have suffered harm as a result of child abuse or neglect. The new phrase, "reasonable cause to suspect," clears up issues that have recently emerged and is consistent with reporters not conducting an investigation. The Department supports this provision.

*CLARIFIES AND ADDS DEFINITION ON TIME LIMITS FOR REPORTS.* Present law fails to define "immediately." This bill provides a definition of "immediately" and requires reports to be made "as soon as is reasonably possible, and within 24 hours." The Department supports this provision.

*REQUIRES NOTIFICATION TO SCHOOLS WHEN THE HARM WAS CAUSED BY A SCHOOL EMPLOYEE, AND NOTIFICATION FROM THE SCHOOL TO THE PROFESSIONAL TEACHING PRACTICES COMMISSION.* New language requires the Department or law enforcement to report to the school principal when a child has been abused by a teacher or

other person employed by the school. This provision is unclear about what information is shared with the schools and what constitutes a determination in a case. While the Department supports the intention that schools take affirmative action to protect children, we have serious concerns about the difficulty of administering this provision. New regulatory provisions being adopted may also make this requirement largely unnecessary.

**EXPANDS THE DUTIES OF SCHOOL OFFICIALS TO ALLOW FOR THE CHILD TO BE INTERVIEWED AT SCHOOL.** New language allows the Department to interview a child who is reported to be a victim of abuse or neglect at the school without notification to the child's parents, if the harm to the child is believed to be the result of the conduct for conditions created by a person responsible for the child's welfare. The Department strongly supports this provision.

**DEPARTMENT POSITION**

The Department supports the intent of SB 450 and most of its provisions with the amendments that we recommended. Those recommendations included deleting section 6, and amending the definition of maltreatment to focus more on the outcome of harm to the child.

The Department believes that this bill, with the above changes, enhance the state's ability to protect children.

Russell Webb 2/13/90  
Russell Webb, Director Date  
Division of Family and  
Youth Services

Myra M. Munson 2/13/90  
Myra M. Munson Date  
Commissioner

MEMORANDUM

STATE OF ALASKA

TO: Jay Livey

DATE: January 12, 1990

THRU: *RW*  
Russ Webb  
Director

FILE NO: 189

Martha Holmberg  
Field Administrator

SUBJECT: Mental Injury

FROM: Vicki Koehler *Vicki Koehler*  
Program Coordinator

I contacted Kathy Admire, the Region X specialist for NCAN. She obtained several definitions of mental injury from other states for me, which she will also include in her forthcoming letter to Russ. I suggest that we propose the following three definitions as all acceptable to both the Division and the federal government, and let the sponsor and/or the committee select the one they favor. I have listed them in the order I favor!

1. "mental injury means an observable or substantial impairment in the child's ability to function within the normal range of performance and behavior, with due regard to the child's culture"; (a revision of our current proposed definition)
2. "mental injury to a child shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child;" (Oregon)
3. "Mental injury means a substantial impairment to the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior." (Idaho)



STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 21, 1990

SUBJECT: Comments on CSSB 450(Jud)

TO: Senator Jan Faiks, Chair  
Senate Judiciary Committee

FROM: Terri Lauterbach *TL*  
Legislative Counsel

Enclosed is a draft of CSSB 450(Jud). I have two comments about the draft.

First, I have narrowed the title of the bill as requested, but it was also necessary to include in the title that the definition of "child abuse or neglect" was being amended. That is because its amendment affects laws outside of AS 47.17 that have nothing to do with reports or training related to child abuse or neglect. There are references to AS 47.17.070's definition in AS 37.14.270(2) (relating to the Alaska Children's Trust Fund) and in AS 47.10.142 (relating to emergency custody of minors). The original general title covered these changes. Converting the title to a more narrowly descriptive title requires that all changes in the bill be covered by the description, so I have included the unrequested phrase of "amending the definition of 'child abuse or neglect'" to cover these other changes.

Second, a requested amendment to the definition of "maltreatment" included an exception for controlled substances authorized under AS 17.30. If the intent was to make an exception for drugs that wind up in the newborn's bloodstream because of legal activity, then personal private use of marijuana has been overlooked.

Please let me know if I can be of further assistance.

TL:gc  
G13/098

Enclosure

PERSONS WHO TESTIFIED ON SB 450:

Laurie Otto Department of Law	PRO
Vicki Kochler DHSS	PRO
Theresa Tarrony DHSS	PRO
Barbara Miklos Council on Domestic Violence	PRO
Cindy Smith Alaska Network on Domestic Violence	PRO
Jim McCann Alaska State Troopers	PRO
Bob Weinstein Southeast Island School District	CON
Gladys Pugnawiyi Maniilaq Association	PRO
Beatrice Mills Maniilaq Social Services	PRO
Kathy Garfield Women's Crisis Shelter	PRO
Sherry Goll Alaska Women's Lobby	PRO
Nancy Shave Superintendent, Skagway School District	CON
Bob Griswold Alaska Children's Services	PRO
Anne Newell APD Employees Association	PRO
Carrie Longoria Anchorage Task Force on Sexual Assault	PRO
Gertrude Bailey Tundra Women's Coalition	PRO
Barry Gross DFYS social worker	PRO

Constance Griffith  
League of Women Voters

PRO

Rosy Thompson

PRO

Michael Daugherty  
Alaska Chiefs of Police Association

PRO

Sectional Analysis  
SB 450

Section 1: [AS 47.17.010] The amendment conforms the purpose clause to the definition of "child abuse or neglect" set out in section 16. In addition, the amendment clarifies that if there is a reasonable cause to suspect child abuse, a report should be made to the department. At present, some reporters believe that they must conduct an investigation to determine whether child abuse or neglect has occurred before reporting the abuse to the department. In order to make sure that investigations regarding child abuse and neglect are conducted by individuals trained to do investigations, and to avoid subjecting a child to multiple interviews, the standard for reporting is changed in AS 47.17 from "cause to believe" to "reasonable cause to suspect." This change reflects the belief that public policy is better served by DFYS investigating possibly unfounded reports of child abuse than by failing to investigate where abuse may prove to have occurred. The "reasonable cause to suspect" standard has been upheld in the face of constitutional vagueness challenges in People v. Cavaiani, 432 N.W.2d 409 (Mich. App. 1988) and State v. Hurd, 400 N.W. 2d 42 (Wis. App. 1986). A definition of "reasonable cause to suspect" is set out in section 19.

Section 2: [AS 47.17.020(a)] As described under section 1, the standard for reporting is changed from "cause to believe" to "reasonable cause to suspect." In addition, section 2 adds paid employees of substance abuse counseling or treatment programs to the list of person required to report child abuse or neglect. These persons were previously excluded from the list because a reporting obligation would conflict with federal confidentiality requirements for substance abuse treatment providers. However, federal law has recently been changed to allow substance abuse treatment providers to report child abuse or neglect. See 42 U.S.C. 290dd-3 and 42 U.S.C. 290ee-3.

Section 3: [AS 47.17.020(b)] As described under section 1, the standard for reporting is changed from "cause to believe" to "reasonable cause to suspect."

Section 4: [AS 47.17.020(c)] For purposes of clarity, the undefined word "immediate" is replaced with "immediately," a term defined in section 19.

Section 5: [AS 47.17.020(e)] Under present law, some reports of child abuse are required to be made to the department and others are required to be made to the nearest law enforcement agency. This has caused confusion for some reporters; others simply make all reports to the department. The amendment conforms the law to existing practice, and requires all reports of suspected

child abuse or neglect to be made to the department. However, since law enforcement agencies will continue to have the responsibility for investigating cases involving abuse by persons not responsible for the welfare of a child, and cases involving possible criminal conduct, the amendment imposes an obligation on the department to immediately report such cases to the nearest law enforcement agency.

Section 6: [AS 47.17.020(f)] In cases where a child has been abused by a teacher or other school employee working in the school in which the child is enrolled as a student, the amendment requires the investigating agency to report the abuse to the school. If a teacher is the abuser, the district is obligated to report the conduct of the teacher to the Professional Teaching Practices Commission within 10 days.

Section 7: [AS 47.17.022] Under current law, state agencies that employ persons required to report abuse or neglect of children must provide training on the recognition and reporting of child abuse and neglect. The amendment imposes an identical obligation on school districts.

Section 8: [AS 47.17.023] As described under section 1, the standard for reporting is changed from "cause to believe" to "reasonable cause to suspect." In addition, for purposes of clarity, the undefined word "promptly" is replaced with "immediately," a term defined in section 19.

Section 9: [AS 47.17.025(a)] As a result of the change in the definition of "child abuse or neglect" described under sections 1 and 16, the amendment makes a technical change to AS 47.17.025.

Section 10: [AS 47.17.027] A new section is added to the statute to allow the department and law enforcement officials to interview a child at school, without prior notification to, or permission from, the person responsible for the child's welfare, if the person responsible for the child's welfare is alleged to have abused or neglected the child.

Section 11: [AS 47.17.040(b)] The Alaska Supreme Court has repeatedly expressed its aversion to the imposition of criminal sanctions in the absence of proof that an offender was aware or conscious of some wrongdoing. See, e.g., Speidel v. State, 460 P.2d 77, 78 (Alaska 1969); Hentzner v. State, 613 P.2d 821 (Alaska 1980); State v. Rice, 626 P.2d 104 (Alaska 1981); AS 11.81.600. The amendment adds the mental state of "recklessly" to the crime of releasing confidential information, and classifies the offense as a class B misdemeanor.

Section 12: [AS 47.17.050(a)] Under current law, persons who make good faith reports of child abuse are immune from

any criminal or civil liability as a result of making the report. The amendment clarifies that a person who does not comply with the reporting requirement, for example by delaying making a report of the abuse for many months, is not immune from either civil or criminal liability based on the delay in making the report.

Section 13: [AS 47.17.050(b)] Consistent with the position taken by the court in State v. Howland, 464 A.2d 1076 (New Hampshire 1984), the amendment provides that abusers who report the abuse are not immune from either civil or criminal liability.

Section 14: [AS 47.17.064(a)] As described under section 1, the standard for taking photographs and x-rays is changed from "cause to believe" to "reasonable cause to suspect."

Section 15: [AS 47.17.068] The amendment clarifies that criminal penalties may be imposed for failing to comply with the reporting requirements of AS 47.17.020 or 47.17.023 where a person knows of the circumstances giving rise to the need for a report.

Section 16: [AS 47.17.070(2)] In order for the state to continue to receive federal money under the Child Abuse Prevention and Treatment Act, the definition of "child abuse or neglect" must require the reporting of mental injury. The amendment adds this language to the statute. Consistent with the amendment discussed in section 5, the definition of child abuse or neglect has been changed to apply to abuse committed by any person. (Under current law, abuse committed by persons not responsible for a child's welfare must be reported to the police; the effect of the amendment is to require all reports to be made to the department.)

Section 17: [AS 47.17.070(3)] Because foster parents are given reimbursement for their services, rather than compensation, under current law foster parents are arguably not required to report abuse or neglect. The effect of the amendment would be to clarify that all child care providers, including foster parents, must report child abuse or neglect.

Section 18: [AS 47.17.070(9)] Since mental health counselors are in a position to recognize and report the child abuse or neglect, they have been added to the definition of practitioner of the healing arts.

Section 19: [AS 47.17.070] The amendment provides definitions for a number of currently undefined terms in the statute as follows:

AS 47.17.070(11): In order to clarify the language of current law, a definition of "immediately" is set out.

AS 47.17.070(12): In order to clarify the language of current law, a definition of "maltreatment" is set out. Under

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AS 47.17.070(14): A definition of "reasonable cause to suspect" is set out; the definition is based on the rulings in People v. Cavaiani, 432 N.W.2d 409 (Mich. App. 1988) and State v. Hurd, 400 N.W. 2d 42 (Wis. App. 1986).

AS 47.17.070(15): Under section 11, it is a crime to "recklessly" release confidential information. The definition of "recklessly" is set out in Title 11, and the amendment cross references this definition.

AS 47.17.070(16): The term "school district" is used in section 7; a definition of the term is set out in this amendment.

AS 47.17.070(17): In order to clarify the language of current law, a definition of "sexual abuse" is set out.

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

STEVE COWPER, GOVERNOR

REPLY TO

CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX KC  
JUNEAU, ALASKA 99811-0310  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

January 30, 1990

The Honorable Jan Faiks  
Alaska State Senator  
P.O. Box V  
Juneau, Alaska 99811

Re: Proposed Amendments to Child  
Abuse Reporting Law (AS 47.17)

Dear Senator Faiks:

You recently requested our assistance in drafting amendments to the child abuse reporting law that clarify the meaning of certain provisions of existing law. A draft of proposed amendments is attached for your review, as well as a sectional analysis that explains the proposed changes. We have coordinated preparation of this draft with the Departments of Health and Social Services and Public Safety, as well as with attorneys in the civil division of the Department of Law.

If you need any additional assistance, please let us know.

Very truly yours,

DOUGLAS B. BAILY  
ATTORNEY GENERAL

By: 

Laurie H. Otto  
Assistant Attorney General

cc: The Honorable Myra Munson, Commissioner  
Department of Health and Social Services  
The Honorable Gayle Horetski, Deputy Commissioner  
Department of Public Safety  
Barbara Miklos, Council on Domestic Violence  
Bob Evans, Office of the Governor

LHO:me-167

PROPOSED AMENDMENTS TO AS 47.17

January 29, 1990

\*Section 1. AS 47.17.010 is amended to read:

Sec. 47.17.010. PURPOSE. In order to protect children whose health and well-being may be adversely affected through the infliction, by other than accidental means, of harm through physical injury [ABUSE] or neglect, mental injury, [OR] sexual abuse, [OR] sexual exploitation, or maltreatment, the legislature requires the reporting of these cases by practitioners of the healing arts and others to the department [APPROPRIATE PUBLIC AUTHORITIES]. It is not the intent of the legislature that investigations be conducted by those who are required to make reports. Rather, reports are required to be made when there is a reasonable suspicion of child abuse or neglect in order to make state investigative and social services available in a wider range of cases at an earlier point in time, to make sure that investigations regarding child abuse and neglect are conducted by trained investigators, and to avoid subjecting a child to multiple interviews about the abuse or neglect. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to prevent further harm to the child, to safeguard and enhance the general well-being of the children in this state, and to preserve family life whenever possible.

\*Sec. 2. AS 47.17.020(a) is amended to read:

(a) The following persons who, in the performance of their occupational duties, have reasonable cause to suspect [CAUSE TO BELIEVE] that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department:

- (1) practitioners of the healing arts;
- (2) school teachers and school administrative staff members of public and private schools;
- (3) social workers;
- (4) peace officers, and officers of the Department of Corrections;
- (5) administrative officers of institutions;
- (6) child care providers;
- (7) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.900;
- (8) paid employees of substance abuse treatment or prevention programs.

\*Sec. 3. AS 47.17.020(b) is amended to read:

(b) This section does not prohibit the named persons from reporting cases that have come to their attention in their nonoccupational capacities, nor does it prohibit any other person from reporting a child's harm that the person has reasonable cause to suspect [CAUSE TO BELIEVE] is a result of child abuse or

neglect. These reports shall be made to the nearest office of the department.

\*Sec. 4. AS 47.17.020(c) is amended to read:

(c) If the person making a report of harm under this section cannot reasonably contact the nearest office of the department and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall immediately take [IMMEDIATE] action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department.

\*Sec. 5. AS 47.17.020(e) is repealed and reenacted to read:

(e) The department shall immediately notify the nearest law enforcement agency if the department

(1) concludes that the harm was caused by a person who is not responsible for the child's welfare;

(2) is unable to determine

(A) who caused the harm to the child; or

(B) whether the person who is believed to have caused the harm has responsibility for the child's welfare; or

(3) concludes that the report involves

(A) possible criminal conduct under AS 11.41.410 -- AS 11.41.455; or

(B) abuse or neglect which results in the need for medical treatment of the child.

\*Sec. 6. AS 47.17.020 is amended by adding a new section to read:

(f) If the department or a law enforcement agency determines that a child has been abused or neglected, and that the harm was caused by a teacher employed by the school in which the child is enrolled as a student, the department or law enforcement agency shall, at the earliest possible opportunity, notify the principal of the school in which the teacher is employed. The notification shall set out the factual basis for the department's or law enforcement agency's determination. Within 10 days of receiving notification from the department or law enforcement agency, the principal shall file a report with the Professional Teaching Practices Commission that sets out the name of the teacher and the information received from the department or law enforcement agency under this subsection.

\*Sec. 7. AS 47.17.022 is amended to read:

Sec. 47.17.022. TRAINING. (a) A person employed by the state or a school district who is required under this chapter to report abuse or neglect of children shall receive training on the recognition and reporting of child abuse and neglect.

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

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

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

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

(1) laws relating to child abuse and neglect;

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

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

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

(d) Each department and school district that must comply with (b) of this section shall file a current copy of its training curriculum and materials, with the Council on Domestic Violence and Sexual Assault. A department or school district may seek the technical assistance of the council or the Department of Health and Social Services in the development of its training program.

\*Sec. 8. AS 47.17.023 is amended to read:

Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY.

A person who, in the course of processing or producing visual or printed matter, either privately or commercially, has reasonable cause to suspect [REASON TO BELIEVE] that the matter visually depicts a child engaged in conduct described in AS 11.41.455(a) shall immediately [PROMPTLY] report this to the nearest law enforcement agency, and provide the law enforcement agency with all information known about the nature and origin of the matter.

\*Sec. 9. AS 47.17.025(a) is amended to read:

(a) A law enforcement agency shall immediately notify the department of the receipt of a report of harm to a child from abuse by a person responsible for the child's welfare. Upon receipt from any source of a report of harm to a child from abuse by a person responsible for the child's welfare, the department shall notify the Department of Law and investigate the report and, within 72 hours of the receipt of the report, shall provide a written report of its investigation of the harm to a child from abuse to the Department of Law for review.

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

Sec. 47.17.027. DUTIES OF SCHOOL OFFICIALS. If the department or a law enforcement agency determines that there is reasonable cause to suspect that a child has been abused or neglected by a person responsible for the child's welfare, or as

a result of conditions created by a person responsible for the child's welfare, school officials shall permit the child to be interviewed at school by the department or a law enforcement agency without prior notification of, or permission from, the child's parent, guardian, or custodian.

\*Sec. 11. AS 47.17.040(b) is amended to read:

(b) Investigation reports and reports of harm filed under this chapter are considered confidential and are not subject to public inspection and copying under AS 09.25.110 and 09.25.120. However, in accordance with department regulations, investigation reports may be used by appropriate governmental agencies with child-protection functions, inside and outside Alaska, in connection with investigations or judicial proceedings involving child abuse, neglect, or custody. A person, not acting in accordance with department regulations, who unlawfully makes public information contained in confidential reports is guilty of a class B misdemeanor.

\*Sec. 12. AS 47.17.050 is amended to read:

Sec. 47.17.050. IMMUNITY. A person who[, IN GOOD FAITH,] complies with this chapter and makes an immediate good faith [A] report of child abuse or neglect [UNDER THIS CHAPTER], or who participates in judicial proceedings related to the submission of reports under this chapter, is immune from any civil or criminal liability which might otherwise be incurred or imposed

as a result of making the report. A person is not immune from civil or criminal liability who

(1) fails to comply with the reporting provisions of AS 47.17.020 or AS 47.17.023; or

(2) is the person accused of committing child abuse or neglect.

\*Sec. 13. AS 47.17.064(a) is amended to read:

(a) The department or a practitioner of the healing arts may, without the permission of the parents, guardian, or custodian, take the following actions with regard to a child who the department or practitioner of the healing arts has reasonable cause to suspect has [BELIEVED TO HAVE] suffered physical harm as a result of child abuse or neglect:

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

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

\*Sec. 14. AS 47.17.068 is amended to read:

Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who knowingly fails to comply with the provisions of [OR REFUSES TO REPORT AS REQUIRED UNDER] AS 47.17.020 or 47.17.023 is guilty of a class B misdemeanor.

\*Sec. 15. AS 47.17.070 is amended to read:

Sec. 47.17.070. DEFINITIONS. In this chapter

(1) "child" means a person under 18 years of age;

(2) "child abuse or neglect" means the physical injury or neglect, mental injury, sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by any person [A PERSON WHO IS RESPONSIBLE FOR THE CHILD'S WELFARE] under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;

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

(4) "department" means the Department of Health and Social Services;

(5) "institution" means a private or public hospital or other facility providing medical diagnosis, treatment, or care;

(6) "neglect" means the failure to provide necessary food, care, clothing, shelter, or medical attention for a child;

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

(8) "person responsible for the child's welfare" means the child's parent, guardian, foster parent, a person

responsible for the child's care at the time of the alleged child abuse or neglect, or a person responsible for the child's welfare in a public or private residential agency or institution;

(9) "practitioner of the healing arts" includes chiropractors, counselors providing services to children, dental hygienists, dentists, health aides, nurses, nurse practitioners, occupational therapists, occupational therapy assistants, optometrists, osteopaths, naturopaths, physical therapists, physical therapy assistants, physicians, physician's assistants, psychiatrists, psychologists, psychological associates, audiologists licensed under AS 08.11, hearing aid dealers licensed under AS 08.55, religious healing practitioners, and surgeons;

(10) "sexual exploitation" includes

(A) allowing, permitting, or encouraging a child to engage in prostitution prohibited by AS 11.66.100 - 11.66.150, by a person responsible for the child's welfare;

(B) allowing, permitting, encouraging, or engaging in activity prohibited by AS 11.41.455(a), by a person responsible for the child's welfare;

(11) "immediately" means at the earliest possible opportunity, and no later than 24 hours;

(12) "knowingly" has the meaning given in AS 11.81.900;

(13) "maltreatment" means any ill-treatment that harms or threatens a child's welfare, and includes conduct that

causes a child to be born with any amount of a controlled substance under AS 11.71 in the child's blood or urine;

(14) "mental injury" means an injury to the emotional well-being, or intellectual or psychological capacity of a child, as evidenced by an observable and substantial impairment in the child's ability to function, with due regard to the child's culture;

(15) "reasonable cause to suspect" means cause, based on all the known facts and circumstances, that would lead a reasonable person to suspect that a child might have been abused or neglected;

(16) "recklessly" has the meaning given in AS 11.81.900;

(17) "sexual abuse" means criminal conduct under AS 11.41.410 -- AS 11.41.455, or any other sexual behavior that harms or threatens a child's health or welfare;

(18) "substance abuse treatment or prevention program" means an agency or business that provides counseling or treatment to individuals seeking to control their use of drugs or alcohol.

Sectional Analysis  
Proposed Amendments to AS 47.17

January 29, 1990

Section 1: [AS 47.17.010] The amendment conforms the purpose clause to the definition of "child abuse or neglect" set out in section 15. In addition, the amendment clarifies that if there is a reasonable cause to suspect child abuse, a report should be made to the department. At present, some reporters believe that they must conduct an investigation to determine whether child abuse or neglect has occurred before reporting the abuse to the department. In order to make sure that investigations regarding child abuse and neglect are conducted by individuals trained to do investigations, and to avoid subjecting a child to multiple interviews, the standard for reporting is changed in AS 47.17 from "cause to believe" to "reasonable cause to suspect." This change reflects the belief that public policy is better served by DFYS investigating possibly unfounded reports of child abuse than by failing to investigate where abuse may prove to have occurred. The "reasonable cause to suspect" standard has been upheld in the face of constitutional vagueness challenges in People v. Cavaiani, 432 N.W.2d 409 (Mich. App. 1988) and State v. Hurd, 400 N.W. 2d 42 (Wis. App. 1986). A definition of "reasonable cause to suspect" is set out in section 15.

Section 2: [AS 47.17.020(a)] As described under section 1, the standard for reporting is changed from "cause to believe" to "reasonable cause to suspect." In addition, section 1 adds paid employees of substance abuse treatment or prevention programs to the list of person required to report child abuse or neglect. These persons were previously excluded from the list because a reporting obligation would conflict with federal confidentiality requirements for substance abuse treatment providers. However, federal law has recently been changed to allow substance abuse treatment providers to report child abuse or neglect. See 42 U.S.C. 290dd-3 and 42 U.S.C. 290ee-3.

Section 3: [AS 47.17.020(b)] As described under section 1, the standard for reporting is changed from "cause to believe" to "reasonable cause to suspect."

Section 4: [AS 47.17.020(c)] For purposes of clarity, the undefined word "immediate" is replaced with "immediately," a term defined in section 15.

Section 5: [AS 47.17.020(e)] Under present law, some reports of child abuse are required to be made to the department and others are required to be made to the nearest law enforcement agency. This has caused confusion for some reporters; others simply make all reports to the department. The amendment conforms

the law to existing practice, and requires all reports of suspected child abuse or neglect to be made to the department. However, since law enforcement agencies will continue to have the responsibility for investigating cases involving abuse by persons not responsible for the welfare of a child, and cases involving possible criminal conduct, the amendment imposes an obligation on the department to immediately report such cases to the nearest law enforcement agency.

Section 6: [AS 47.17.020(f)] In cases where a child has been abused by a public school teacher working in the district in which the child is enrolled as a student, the amendment requires the investigating agency to report the abuse to the school district. The district is then obligated to report the conduct of the teacher to the Professional Teaching Practices Commission within 10 days.

Section 7: [AS 47.17.022] Under current law, state agencies that employ persons required to report abuse or neglect of children must provide training on the recognition and reporting of child abuse and neglect. The amendment imposes an identical obligation on school districts.

Section 8: [AS 47.17.023] As described under section 1, the standard for reporting is changed from "cause to believe" to "reasonable cause to suspect." In addition, for purposes of clarity, the undefined word "promptly" is replaced with "immediately," a term defined in section 15.

Section 9: [AS 47.17.025(a)] As a result of the change in the definition of "child abuse or neglect" described under section 15, the amendment makes a technical change to AS 47.17.025.

Section 10: [AS 47.17.027] A new section is added to the statute to allow the department and law enforcement officials to interview a child at school, without notifying the person responsible for the child's welfare, if the person responsible for the child's welfare is alleged to have abused or neglected the child.

Section 11: [AS 47.17.040(b)] The Alaska Supreme Court has repeatedly expressed its aversion to the imposition of criminal sanctions in the absence of proof that an offender was aware or conscious of some wrongdoing. See, e.g., Speidel v. State, 460 P.2d 77, 78 (Alaska 1969); Hentzner v. State, 613 P.2d 821 (Alaska 1980); State v. Rice, 626 P.2d 104 (Alaska 1981); AS 11.81.600. The amendment adds the mental state of "recklessly" to the crime of releasing confidential information, and classifies the offense as a class B misdemeanor.

Section 12: [AS 47.17.050] Under current law, persons who make good faith reports of child abuse are immune from any

criminal or civil liability as a result of making the report. The amendment clarifies that a person who does not comply with the reporting requirement, such as where a person delays reporting child abuse for many months, is not immune from either civil or criminal liability. In addition, consistent with the position taken by the court in State v. Howland, 464 A.2d 1076 (New Hampshire 1984), the amendment provides that abusers who report the abuse are not immune from either civil or criminal liability.

Section 13: [AS 47.17.064(a)] As described under section 1, the standard for taking photographs and x-rays is changed from "cause to believe" to "reasonable cause to suspect."

Section 14: [AS 47.17.068] The amendment clarifies that criminal penalties may be imposed for knowingly failing to comply with the reporting requirements of AS 47.17.020 or 47.17.023.

Section 15: [AS 47.17.070] The amendment provides definitions for a number of currently undefined terms in the statute, and modifies certain definitions contained in existing law, as follows:

AS 47.17.070(2): In order for the state to continue to receive federal money under the Child Abuse Prevention and Treatment Act, the definition of "child abuse or neglect" must require the reporting of mental injury. The amendment adds this language to the statute. Consistent with the amendment discussed in section 5, the definition of child abuse or neglect has been changed to apply to abuse committed by any person. (Under current law, abuse committed by persons not responsible for a child's welfare must be reported to the police; the effect of the amendment is to require all reports to be made to the department.)

AS 47.17.070(3): Because foster parents are given reimbursement for their services, rather than compensation, under current law foster parents are arguably not required to report abuse or neglect. The effect of the amendment would be to clarify that all child care providers, including foster parents, must report child abuse or neglect.

AS 47.17.070(9): In many areas of the state, children receive counseling services from persons who do not fall within the category of professionals listed in the current definition of "practitioner of the healing arts." Since counselors providing services to children are in a position to recognize and report the abuse or neglect of the children they counsel, they have been added to the definition.

AS 47.17.070(11): In order to clarify the language of current law, a definition of "immediately" is set out.

AS 47.17.070(12): Under current law and section 14, a person who "knowingly" fails to comply with the reporting law is subject to criminal penalties. The definition of "knowingly" is set out in Title 11, and the amendment cross references this definition.

AS 47.17.070(13): In order to clarify the language of current law, a definition of "maltreatment" is set out. Under the definition, practitioners of the healing arts would be required to make a report to the department when a child is born with any amount of a controlled substance under AS 11.71 in the child's blood or urine.

AS 47.17.070(14): A definition for "mental injury" is set out. The definition limits reportable mental injury to situations where there is an observable and substantial impairment in the child's ability to function.

AS 47.17.070(15): A definition of "reasonable cause to suspect" is set out; the definition is based on the rulings in People v. Cavaiani, 432 N.W.2d 409 (Mich. App. 1988) and State v. Hurd, 400 N.W. 2d 42 (Wis. App. 1986).

AS 47.17.070(16): Under section 9, it is a crime to "recklessly" release confidential information. The definition of "recklessly" is set out in Title 11, and the amendment cross references this definition.

AS 47.17.070(17): In order to clarify the language of current law, a definition of "sexual abuse" is set out.

AS 47.17.070(18): Under section 1, paid employees of substance abuse treatment or prevention programs are required to report child abuse and neglect. The amendment sets out a definition of "substance abuse treatment or prevention program."

STEVE COWPER, GOVERNOR

**DEPARTMENT OF PUBLIC SAFETY**

**COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT**

P.O. BOX N  
JUNEAU, ALASKA 99811-1200  
PHONE: (907) 465-4356

OFFICE ADDRESS: 450 WHITTIER STREET

January 23, 1990

William Frick, President  
Anchorage School Board  
2961 Drake Drive  
Anchorage, AK 99508

Dear Mr. Frick:

The Council on Domestic Violence and Sexual Assault (Council) has reviewed the Draft Revised Child Abuse and Neglect Reporting Procedures that will go to second reading on February 12, 1990. We have serious concerns about certain provisions of the procedures.

The major concern centers around using a team approach "in cases where an individual is uncertain as to whether or not cause to believe child abuse or neglect has occurred" (IVB. beginning on page 6). We believe that it is in the best interest of the child that investigations regarding child abuse and neglect be conducted by individuals trained to do investigations. Assistant principals, nurses, counselors or psychologists are not in any better positions than classroom teachers to assess for abuse or neglect. It is very difficult for a child to disclose abuse, particularly when the abuser is a parent. If an investigation is not well conducted, it could easily be harmful to the child as well as damaging to the case.

It is also important that the number of interviews in which a child is required to participate is kept to a minimum. The process of disclosure is painful and traumatic to the child. This should not be exacerbated by additional, unnecessary interviews.

We recommend that if there is a suspicion of child abuse and neglect, reports are made immediately and directly to the Department of Health and Social Services, Division of Family and Youth Services (DFYS) or the police. They are the best qualified to determine if child abuse or neglect has occurred.

We are also concerned that the draft policies do not address circumstances when DFYS or the police must interview a child on school district premises. Schools are often the only location DFYS and police can interview a child without undue pressure from parents. Policies should allow DFYS and police to interview a child at school without notifying a parent. Prior notification to a parent could be detrimental to the investigation.

We think that the process for reporting that you have delineated is excellent, particularly the requirements for written reports. The requirements for training are also excellent.

Thank you for considering our comments. Please contact Barbara Miklos, Executive Director of the Council if you have any questions about our comments.

Sincerely,

*Bgm for*  
*Mary Pete*  
Mary Pete  
Chair

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 31, 1990

SUBJECT: Reports of Child Abuse and Neglect  
(Work Order No. 6-2075)

TO: Senator Jan Faiks  
Chair, Senate Judiciary Committee

FROM: Terri Lauterbach *TML*  
Legislative Counsel

Enclosed is a draft responding to your request concerning reports of child abuse and neglect. It is based on the draft you submitted from the Attorney General's Office.

I have closely followed the A.G.'s draft, but I have the following comments:

Sec. 2. At the end of this section, I have incorporated the A.G.'s definition of "substance abuse treatment or prevention program" rather than using the term and defining it later. You may wish to consider tightening up the definition. The current language would seem to me to include employees of Alcoholics Anonymous, employees of diet centers that counsel persons to decrease their ingestion of caffeine and alcohol, and employees of religious groups who counsel abstinence from alcohol. Of course, if your intent is to cover these persons, then the definition is probably fine.

Sec. 6. This section relates to abuse by teachers. You may wish to consider expanding this section to include coaches, administrative staff, counselors, etc., employed by the school. You might also consider clarifying its application to private schools. My current understanding is that the Professional Teaching Practices Commission regulates only certificated teachers. The reference to the commission in this section might imply that the entire section applies only to public schools and non-exempt private schools. If you wish for the section to apply also to private schools that do not have certificated teachers, perhaps the section should be clarified.

*add - no p2 1 22 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100*

2  
Sec. 16. The A.G.'s expressed intent for adding the phrase "or reimbursement" was to make sure foster parents are covered by the term "child care provider." Since I do not believe that most persons think of foster parents as child care providers, I have added additional clarification of the definition by referring specifically to foster parents. Is this term also intended to cover minors' guardians and conservators? If so, you may wish to also refer to them specifically.

7  
Sec. 17. The term "counselors providing services to children" is not a very precise term. Considering that criminal penalties attach to failure to report abuse, the definition of who must report should be as clear as possible. I also query why the term is limited to those who provide services to children. Like psychiatrists, don't counselors sometimes get information about child abuse from their adult patients?

Sec. 18. I do not believe that a definition of "knowingly" is required. There are many criminal statutes outside of the criminal code that use the term "knowingly" without definition. I do not understand why the A.G. thinks we should start defining it now. "Recklessly" is a term not used as often as "knowingly" so I do not have the same objection to defining it here.

I have modified the offered definition of "reasonable cause to suspect" because it is not always used in connection with child abuse or neglect. See, for instance, use of the phrase in sec. 8 of the draft.

I have added a definition of "school district."

As noted before, I have not included the definition of "substance abuse prevention and treatment program."

- - - - -

Please let me know if my comments prompt further questions or if I can be of other assistance.

TML:lmb  
L9/084

Enclosure

6-2075A  
Lauterbach  
1/31/90

BY THE JUDICIARY COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO.

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 child abuse and neglect."

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

8 \* Section 1. AS 47.17.010 is amended to read:

9 Sec. 47.17.010. PURPOSE. In order to protect children whose  
10 health and well-being may be adversely affected through the inflic-  
11 tion, by other than accidental means, of harm through physical injury  
12 [ABUSE] or neglect, mental injury, [OR] sexual abuse, [OR] sexual  
13 exploitation, or maltreatment, the legislature requires the reporting  
14 of these cases by practitioners of the healing arts and others to the  
15 department. It is not the intent of the legislature that investiga-  
16 tions of suspected child abuse or neglect be conducted by those who  
17 are required to make reports. Reports must be made when there is a  
18 reasonable suspicion of child abuse or neglect in order to make state  
19 investigative and social services available in a wider range of cases  
20 at an earlier point in time, to make sure that investigations regard-  
21 ing child abuse and neglect are conducted by trained investigators,  
22 and to avoid subjecting a child to multiple interviews about the abuse  
23 or neglect [APPROPRIATE PUBLIC AUTHORITIES]. It is the intent of the  
24 legislature that, as a result of these reports, protective services  
25 will be made available in an effort to prevent further harm to the  
26 child, to safeguard and enhance the general well-being of the children  
27 in this state, and to preserve family life whenever possible.

28 \* Sec. 2. AS 47.17.020(a) is amended to read:

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

1 occupational duties, have reasonable cause to suspect [CAUSE TO BE-  
2 LIEVE] that a child has suffered harm as a result of child abuse or  
3 neglect shall immediately report the harm to the nearest office of the  
4 department:

- 5 (1) practitioners of the healing arts;
- 6 (2) school teachers and school administrative staff members  
7 of public and private schools;
- 8 (3) social workers;
- 9 (4) peace officers, and officers of the Department of  
10 Corrections;
- 11 (5) administrative officers of institutions;
- 12 (6) child care providers;
- 13 (7) paid employees of domestic violence and sexual assault  
14 programs, and crisis intervention and prevention programs as defined  
15 in AS 18.66.900;
- 16 (8) paid employees of an organization that provides coun-  
17 seling or treatment to individuals seeking to control their use of  
18 drugs or alcohol.

19 \* Sec. 3. AS 47.17.020(b) is amended to read:

20 (b) This section does not prohibit the named persons from re-  
21 porting cases that have come to their attention in their nonoccupa-  
22 tional capacities, nor does it prohibit any other person from report-  
23 ing a child's harm that the person has reasonable cause to suspect  
24 [CAUSE TO BELIEVE] is a result of child abuse or neglect. These  
25 reports shall be made to the nearest office of the department.

26 \* Sec. 4. AS 47.17.020(c) is amended to read:

27 (c) If the person making a report of harm under this section  
28 cannot reasonably contact the nearest office of the department and  
29 immediate action is necessary for the well-being of the child, the

1 person shall make the report to a peace officer. The peace officer  
2 shall immediately take [IMMEDIATE] action to protect the child and  
3 shall, at the earliest opportunity, notify the nearest office of the  
4 department.

5 \* Sec. 5. AS 47.17.020(e) is repealed and reenacted to read:

6 (e) The department shall immediately notify the nearest law  
7 enforcement agency if the department

8 (1) concludes that the harm was caused by a person who is  
9 not responsible for the child's welfare;

10 (2) is unable to determine

11 (A) who caused the harm to the child; or

12 (B) whether the person who is believed to have caused  
13 the harm has responsibility for the child's welfare; or

14 (3) concludes that the report involves

15 (A) possible criminal conduct under AS 11.41.410 -  
16 11.41.455; or

17 (B) abuse or neglect that results in the need for  
18 medical treatment of the child.

19 \* Sec. 6. AS 47.17.020 is amended by adding a new section to read:

20 (f) If the department or a law enforcement agency determines  
21 that a child has been abused or neglected and that the harm was caused  
22 by a teacher employed by the school in which the child is enrolled as  
23 a student, the department or law enforcement agency shall, at the  
24 earliest possible opportunity, notify the principal of the school in  
25 which the teacher is employed. [The notification must set out the  
26 factual basis for the department's or law enforcement agency's deter-  
27 mination.] Within 10 days after receiving notification from the  
28 department or law enforcement agency under this subsection, the prin-  
29 cipal shall file a report with the Professional Teaching Practices

1 Commission that sets out the name of the teacher and the information  
2 received from the department or law enforcement agency under this  
3 subsection.

4 \* Sec. 7. AS 47.17.022 is amended to read:

5 Sec. 47.17.022. TRAINING. (a) A person employed by the state  
6 or a school district who is required under this chapter to report  
7 abuse or neglect of children shall receive training on the recognition  
8 and reporting of child abuse and neglect.

9 (b) Each department of the state and school district that  
10 employs persons required to report abuse or neglect of children shall  
11 provide

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

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

17 (c) Each department and school district that must comply with  
18 (b) of this section shall develop a training curriculum that acquaints  
19 its employees with

20 (1) laws relating to child abuse and neglect;

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

23 (3) agencies and organizations within the state that offer  
24 aid or shelter to victims and the families of victims of child abuse  
25 or neglect; and

26 (4) procedures for required notification of suspected abuse  
27 or neglect.

28 (d) Each department and school district that must comply with  
29 (b) of this section shall file a current copy of its training

1 curriculum and materials [,] with the Council on Domestic Violence and  
2 Sexual Assault. A department or school district may seek the techni-  
3 cal assistance of the council or the Department of Health and Social  
4 Services in the development of its training program.

5 \* Sec. 8. AS 47.17.023 is amended to read:

6 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person  
7 who, in the course of processing or producing visual or printed mat-  
8 ter, either privately or commercially, has reasonable cause to suspect  
9 [REASON TO BELIEVE] that the matter visually depicts a child engaged  
10 in conduct described in AS 11.41.455(a) shall immediately [PROMPTLY]  
11 report this to the nearest law enforcement agency, and provide the law  
12 enforcement agency with all information known about the nature and  
13 origin of the matter.

14 \* Sec. 9. AS 47.17.025(a) is amended to read:

15 (a) A law enforcement agency shall immediately notify the  
16 department of the receipt of a report of harm to a child from abuse by  
17 a person responsible for the child's welfare. Upon receipt from any  
18 source of a report of harm to a child from abuse by a person responsi-  
19 ble for the child's welfare, the department shall notify the Depart-  
20 ment of Law and investigate the report and, within 72 hours of the  
21 receipt of the report, shall provide a written report of its investi-  
22 gation of the harm to a child from abuse to the Department of Law for  
23 review.

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

25 Sec. 47.17.027. DUTIES OF SCHOOL OFFICIALS. If the department  
26 or a law enforcement agency determines that there is reasonable cause  
27 to suspect that a child has been abused or neglected by a person  
28 responsible for the child's welfare, or as a result of conditions  
29 created by a person responsible for the child's welfare, school

1 officials shall permit the child to be interviewed at school by the  
2 department or a law enforcement agency before notification of, or  
3 receiving permission from, the child's parent, guardian, or custodian.

4 \* Sec. 11. AS 47.17.040(b) is amended to read:

5 (b) Investigation reports and reports of harm filed under this  
6 chapter are considered confidential and are not subject to public  
7 inspection and copying under AS 09.25.110 and 09.25.120. However, in  
8 accordance with department regulations, investigation reports may be  
9 used by appropriate governmental agencies with child-protection func-  
10 tions, inside and outside the state [ALASKA], in connection with  
11 investigations or judicial proceedings involving child abuse, neglect,  
12 or custody. A person, not acting in accordance with department regu-  
13 lations, who recklessly makes public information contained in confi-  
14 dential reports is guilty of a class B misdemeanor.

15 \* Sec. 12. AS 47.17.050 is amended to read:

16 Sec. 47.17.050. IMMUNITY. Except as otherwise provided in this  
17 section, a [A] person who complies with this chapter and [, IN GOOD  
18 FAITH,] makes an immediate good faith [A] report of child abuse or  
19 neglect [UNDER THIS CHAPTER], or who participates in judicial proceed-  
20 ings related to the submission of reports under this chapter, is  
21 immune from [ANY] civil or criminal liability that [WHICH] might  
22 otherwise be incurred or imposed as a result of making the report. A  
23 person is not immune from civil or criminal liability if the person  
24 (1) fails to comply with the reporting provisions of  
25 AS 47.17.020 or 47.17.023; or

26 (2) is accused of committing the child abuse or neglect.

27 \* Sec. 13. AS 47.17.064(a) is amended to read:

28 (a) The department or a practitioner of the healing arts may,  
29 without the permission of the parents, guardian, or custodian, take

1 the following actions with regard to a child who the department or  
2 practitioner has reasonable cause to suspect has [BELIEVED TO HAVE]  
3 suffered physical harm as a result of child abuse or neglect:

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

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

9 \* Sec. 14. AS 47.17.068 is amended to read:

10 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who  
11 knowingly fails to comply with the provisions of [OR REFUSES TO REPORT  
12 AS REQUIRED UNDER] AS 47.17.020 or 47.17.023 is guilty of a class B  
13 misdemeanor.

14 \* Sec. 15. AS 47.17.070(2) is amended to read:

15 (2) "child abuse or neglect" means the physical injury or  
16 neglect, mental injury, sexual abuse, sexual exploitation, or mal-  
17 treatment of a child under the age of 18 by a person [WHO IS RESPONSI-  
18 BLE FOR THE CHILD'S WELFARE] under circumstances that [WHICH] indicate  
19 that the child's health or welfare is harmed or threatened thereby;

20 \* Sec. 16. AS 47.17.070(3) is amended to read:

21 (3) "child care provider" means an adult individual, in-  
22 cluding a foster parent or an employee of an organization, who pro-  
23 vides care and supervision to a child for compensation or reimburse-  
24 ment;

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

26 (9) "practitioner of the healing arts" includes chiroprac-  
27 tors, counselors providing services to children, dental hygienists,  
28 dentists, health aides, nurses, nurse practitioners, occupational  
29 therapists, occupational therapy assistants, optometrists, osteopaths,

1 naturopaths, physical therapists, physical therapy assistants, physi-  
2 cians, physician's assistants, psychiatrists, psychologists, psycho-  
3 logical associates, audiologists licensed under AS 08.11, hearing aid  
4 dealers licensed under AS 08.55, religious healing practitioners, and  
5 surgeons;

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

7 (11) "immediately" means at the earliest possible oppor-  
8 tunity, and no later than 24 hours;

9 (12) "knowingly" has the meaning given in AS 11.81.900;

10 (13) "maltreatment" means ill-treatment that harms or  
11 threatens a child's welfare, and includes conduct that causes a child  
12 to be born with a controlled substance, as defined in AS 11.71.900, in  
13 the child's blood or urine;

14 (14) "mental injury" means an injury to the emotional well-  
15 being, or intellectual or psychological capacity of a child, as evi-  
16 denced by an observable and substantial impairment in the child's  
17 ability to function, with due regard to the child's culture;

18 (15) "reasonable cause to suspect" means cause, based on all  
19 the facts and circumstances known to the person, that would lead a  
20 reasonable person to suspect that something might be the case;

21 (16) "recklessly" has the meaning given in AS 11.81.900;

22 (17) "school district" means a city or borough school dis-  
23 trict or regional educational attendance area;

24 (18) "sexual abuse" means criminal conduct under AS 11.41.-  
25 410 - 11.41.455, or any other sexual behavior that harms or threatens  
26 a child's health or welfare.  
27  
28  
29

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. FAHRENKAMP

TO: CSSB 450(Judiciary)

Page 7, after line 28:

Insert a new bill section to read:

"\* Sec. 15. AS 47.17.064 is amended by adding a new subsection to read:

(c) Notwithstanding the definition of "maltreatment" in AS 47.-  
17.070, nothing in this chapter requires a practitioner of the healing  
arts to test a newborn child's blood or urine for the presence of a  
controlled substance, as defined in AS 11.71.900, unless the practi-  
tioner has reasonable cause to suspect that the child has suffered  
physical harm from a controlled substance and the test is medically  
indicated."

Renumber the following bill sections accordingly.

CSSB 450(JUD) AMENDMENTS TO SB 450

Page 1, line 6, following "entitled:"

Delete all material.

Insert

"An Act relating to reporting and investigation of child abuse and neglect; relating to training of persons required to report child abuse or neglect; and amending the definition of 'child abuse or neglect'."

Page 3, lines 20 - 29, and page 4, lines 1 - 4:

Delete all material.

Insert

"(f) If a law enforcement agency determines that a child has been abused or neglected, and that (1) the harm was caused by a teacher or other person employed by the school in which the child is enrolled as a student, (2) the harm occurred during an activity sponsored by the school in which the child is enrolled as a student; or (3) the harm occurred on the premises of the school in which the child is enrolled as a student, the law enforcement agency shall, at the conclusion of its investigation, notify the chief administrative officer of the school or district in which the child is enrolled. The notification must set out the factual basis for the law enforcement agency's determination. Within 10 days after receiving notification from the law enforcement agency under this subsection about a person in the teaching profession, as defined in AS 14.20.370, the chief administrative officer shall file a report with the Professional Teaching Practices Commission that sets out the name of the person in the teaching profession and the information received from the law enforcement agency under this subsection."

Page 4, line 17, following "department":

Insert "or school district"

Page 4, line 26:

Delete "and"

Page 4, line 28, following "neglect":

Insert

";(5) the role of a person required to report child abuse or neglect and their employing agency after the report has been made; and

(6) the manner in which cases of child abuse or neglect are investigated by the department and law enforcement agencies after a report of suspected abuse or neglect"

Page 5, line 17, following "abuse":

Insert "committed"

Page 5, line 19, following "abuse":

Insert "committed"

Page 6, line 4, following "custodian.":

Insert

"A school official may be present during an interview at the school unless the child objects or the department or law enforcement agency determines that the presence of the school official will interfere with the investigation."

Page 6, line 14:

Delete "recklessly"

Insert "with criminal negligence"

Page 8, line 11:

Insert "(11) 'criminal negligence' has the meaning given in AS 11.81.900;"

Renumber remaining paragraphs accordingly.

Page 8, lines 13 - 16:

Delete all material.

Insert

"(12) 'maltreatment' means behavior that harms or threatens a child's health or welfare, and includes conduct that results in a controlled substance, as defined in AS 11.71.900, being found in a newborn child's blood or urine unless the administration of the controlled substance to the mother or child was authorized under AS 17.30;"

Page 8, line 20:

Delete ", with due regard to the child's culture."

Page 8, line 24:

Delete all material.

Page 8, line 28, following "behavior":

Insert "intentionally performed in the presence of a child"

PROPOSED AMENDMENT TO CSSB 450 (Judiciary)

Page 9, line 17, following "11.41.455":

Insert "or any other sexual behavior intentionally performed in the presence of a child that harms or threatens the child's health or welfare"

PROPOSED DEFINITION OF "SEXUAL ABUSE"

CSSB 450 (Judiciary)

Page 8, lines 27 - 29:

Delete all material.

Insert

(17) "sexual abuse" means

(A) criminal conduct under AS 11.41.410 - 11.41.455;

(B) intentional masturbation of a person's genitals in the presence of a child;

(C) intentional exposure of a person's genitals in the presence of a child; or

(D) any other sexual behavior intentionally performed in the presence of a child that harms or threatens the child's health or welfare.

PROPOSED AMENDMENTS TO SB 450

Page 1, line 6, following "to":

Insert "the reporting and investigation of"

Page 1, line 6, following "neglect":

Insert "and to training persons required to report child abuse or neglect"

Page 3, lines 20 - 29, and page 4, lines 1 - 4:

Delete all material.

Insert

(f) If a law enforcement agency determines that a child has been abused or neglected, and (1) that the harm was caused by a teacher or other person employed by the school in which the child is enrolled as a student, (2) that the harm occurred on the premises of the school in which the child is enrolled as a student, or (3) that the harm occurred during an activity sponsored by the school in which the child is enrolled as a student, the law enforcement agency shall, at the conclusion of the investigation, notify the chief administrative officer of the school or district in which the child is enrolled. The notification must set out the factual basis for the law enforcement agency's determination. Within 10 days of receiving notification from the law enforcement agency under this subsection about a person in the teaching profession, as defined in AS 14.20.370, the chief administrative officer shall file a report with the Professional Teaching Practices Commission that sets out the name of the teacher and the information received from a law enforcement agency under this subsection.

Page 4, line 17, following "department":

Insert "or school district"

Page 4, line 26:

Delete "and"

Page 4, line 28, following "neglect":

Insert

";(5) the role of a person required to report child abuse or neglect, and their employing agency, after the report has been made; and

(6) the manner in which cases of child abuse or neglect are investigated by the department and law enforcement agencies following notification of suspected abuse or neglect"

Page 5, line 17, following "abuse":

Insert "committed"

Page 5, line 19, following "abuse":

Insert "committed"

Page 6, line 4, following "custodian.":

Insert

A school official may be present during the interview unless

(1) the child objects; or  
(2) the department or law enforcement agency determines that the presence of the school official will disrupt, or interfere with, the investigation.

Page 8, lines 13 - 16:

Delete all material.

Insert

(12) "maltreatment" means behavior that harms or threatens a child's welfare and includes conduct that results in a controlled substance, as defined in AS 11.71.900, being found in a newborn child's blood or urine, unless the administration of the controlled substance to the mother or child was authorized under AS 17.30.

Page 8, line 20:

Delete ", with due regard to the child's culture."

6-2075H  
Lauterbach  
2/21/90

Original sponsor(s): Judiciary Committee

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 450 (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 reporting and investigation of  
7 child abuse and neglect; relating to training of  
8 persons required to report child abuse or neglect;  
9 and amending the definition of 'child abuse or  
10 neglect'."

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

12 \* Section 1. AS 47.17.010 is amended to read:

13 Sec. 47.17.010. PURPOSE. In order to protect children whose  
14 health and well-being may be adversely affected through the inflic-  
15 tion, by other than accidental means, of harm through physical injury  
16 [ABUSE] or neglect, mental injury, [OR] sexual abuse, [OR] sexual  
17 exploitation, or maltreatment, the legislature requires the reporting  
18 of these cases by practitioners of the healing arts and others to the  
19 department. It is not the intent of the legislature that investiga-  
20 tions of suspected child abuse or neglect be conducted by those who  
21 are required to make reports. Reports must be made when there is a  
22 reasonable suspicion of child abuse or neglect in order to make state  
23 investigative and social services available in a wider range of cases  
24 at an earlier point in time, to make sure that investigations regard-  
25 ing child abuse and neglect are conducted by trained investigators,  
26 and to avoid subjecting a child to multiple interviews about the abuse  
27 or neglect [APPROPRIATE PUBLIC AUTHORITIES]. It is the intent of the  
28 legislature that, as a result of these reports, protective services  
29 will be made available in an effort to prevent further harm to the

1 child, to safeguard and enhance the general well-being of the children  
2 in this state, and to preserve family life whenever possible.

3 \* Sec. 2. AS 47.17.020(a) is amended to read:

4 (a) The following persons who, in the performance of their  
5 occupational duties, have reasonable cause to suspect [CAUSE TO BE-  
6 LIEVE] that a child has suffered harm as a result of child abuse or  
7 neglect shall immediately report the harm to the nearest office of the  
8 department:

9 (1) practitioners of the healing arts;

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

12 (3) social workers;

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

15 (5) administrative officers of institutions;

16 (6) child care providers;

17 (7) paid employees of domestic violence and sexual assault  
18 programs, and crisis intervention and prevention programs as defined  
19 in AS 18.66.900;

20 (8) paid employees of an organization that provides coun-  
21 seling or treatment to individuals seeking to control their use of  
22 drugs or alcohol.

23 \* Sec. 3. AS 47.17.020(b) is amended to read:

24 (b) This section does not prohibit the named persons from re-  
25 porting cases that have come to their attention in their nonoccupa-  
26 tional capacities, nor does it prohibit any other person from report-  
27 ing a child's harm that the person has reasonable cause to suspect  
28 [CAUSE TO BELIEVE] is a result of child abuse or neglect. These  
29 reports shall be made to the nearest office of the department.

1 \* Sec. 4. AS 47.17.020(c) is amended to read:

2 (c) If the person making a report of harm under this section  
3 cannot reasonably contact the nearest office of the department and  
4 immediate action is necessary for the well-being of the child, the  
5 person shall make the report to a peace officer. The peace officer  
6 shall immediately take [IMMEDIATE] action to protect the child and  
7 shall, at the earliest opportunity, notify the nearest office of the  
8 department.

9 \* Sec. 5. AS 47.17.020(e) is repealed and reenacted to read:

10 (e) The department shall immediately notify the nearest law  
11 enforcement agency if the department

12 (1) concludes that the harm was caused by a person who is  
13 not responsible for the child's welfare;

14 (2) is unable to determine

15 (A) who caused the harm to the child; or

16 (B) whether the person who is believed to have caused  
17 the harm has responsibility for the child's welfare; or

18 (3) concludes that the report involves

19 (A) possible criminal conduct under AS 11.41.410 -  
20 11.41.455; or

21 (B) abuse or neglect that results in the need for  
22 medical treatment of the child.

23 \* Sec. 6. AS 47.17.020 is amended by adding a new section to read:

24 (f) If a law enforcement agency determines that a child has been  
25 abused or neglected and that (1) the harm was caused by a teacher or  
26 other person employed by the school in which the child is enrolled as  
27 a student, (2) the harm occurred during an activity sponsored by the  
28 school in which the child is enrolled as a student, or (3) the harm  
29 occurred on the premises of the school in which the child is enrolled

1 as a student, the law enforcement agency shall, at the conclusion of  
2 its investigation, notify the chief administrative officer of the  
3 school or district in which the child is enrolled. The notification  
4 must set out the factual basis for the law enforcement agency's deter-  
5 mination. Within 10 days after receiving notification from the law  
6 enforcement agency under this subsection about a person in the teach-  
7 ing profession, as defined in AS 14.20.370, the chief administrative  
8 officer shall file a report with the Professional Teaching Practices  
9 Commission that sets out the name of the person in the teaching pro-  
10 fession and the information received from the law enforcement agency  
11 under this subsection.

12 \* Sec. 7. AS 47.17.022 is amended to read:

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

17 (b) Each department of the state and school district that em-  
18 ploys persons required to report abuse or neglect of children shall  
19 provide

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

23 (2) appropriate in-service training required by this sec-  
24 tion as determined by the department or school district.

25 (c) Each department and school district that must comply with  
26 (b) of this section shall develop a training curriculum that acquaints  
27 its employees with

28 (1) laws relating to child abuse and neglect;

29 (2) techniques for recognition and detection of child abuse

1 and neglect;

2 (3) agencies and organizations within the state that offer  
3 aid or shelter to victims and the families of victims of child abuse  
4 or neglect; [AND]

5 (4) procedures for required notification of suspected abuse  
6 or neglect;

7 (5) the role of a person required to report child abuse or  
8 neglect and their employing agency after the report has been made; and

9 (6) the manner in which cases of child abuse or neglect are  
10 investigated by the department and law enforcement agencies after a  
11 report of suspected abuse or neglect.

12 (d) Each department and school district that must comply with  
13 (b) of this section shall file a current copy of its training curricu-  
14 lum and materials [,] with the Council on Domestic Violence and Sexual  
15 Assault. A department or school district may seek the technical  
16 assistance of the council or the Department of Health and Social  
17 Services in the development of its training program.

18 \* Sec. 8. AS 47.17.023 is amended to read:

19 Sec. 47.17.023. REPOF 3 REGARDING CHILD PORNOGRAPHY. A person  
20 who, in the course of processing or producing visual or printed mat-  
21 ter, either privately or commercially, has reasonable cause to suspect  
22 [REASON TO BELIEVE] that the matter visually depicts a child engaged  
23 in conduct described in AS 11.41.455(a) shall immediately [PROMPTLY]  
24 report this to the nearest law enforcement agency, and provide the law  
25 enforcement agency with all information known about the nature and  
26 origin of the matter.

27 \* Sec. 9. AS 47.17.025(a) is amended to read:

28 (a) A law enforcement agency shall immediately notify the de-  
29 partment of the receipt of a report of harm to a child from abuse

1 - committed by a person responsible for the child's welfare. Upon  
2 receipt from any source of a report of harm to a child from abuse  
3 committed by a person responsible for the child's welfare, the depart-  
4 ment shall notify the Department of Law and investigate the report  
5 and, within 72 hours of the receipt of the report, shall provide a  
6 written report of its investigation of the harm to a child from abuse  
7 to the Department of Law for review.

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

9       Sec. 47.17.027. DUTIES OF SCHOOL OFFICIALS. If the department  
10 or a law enforcement agency determines that there is reasonable cause  
11 to suspect that a child has been abused or neglected by a person  
12 responsible for the child's welfare, or as a result of conditions  
13 created by a person responsible for the child's welfare, school offi-  
14 cials shall permit the child to be interviewed at school by the de-  
15 partment or a law enforcement agency before notification of, or re-  
16 ceiving permission from, the child's parent, guardian, or custodian.  
17 A school official may be present during an interview at the school  
18 unless the child objects or the department or law enforcement agency  
19 determines that the presence of the school official will interfere  
20 with the investigation.

21 \* Sec. 11. AS 47.17.040(b) is amended to read:

22       (b) Investigation reports and reports of harm filed under this  
23 chapter are considered confidential and are not subject to public  
24 inspection and copying under AS 09.25.110 and 09.25.120. However, in  
25 accordance with department regulations, investigation reports may be  
26 used by appropriate governmental agencies with child-protection func-  
27 tions, inside and outside the state [ALASKA], in connection with  
28 investigations or judicial proceedings involving child abuse, neglect,  
29 or custody. A person, not acting in accordance with department

1 regulations, who with criminal negligence makes public information  
2 contained in confidential reports is guilty of a class B misdemeanor.

3 \* Sec. 12. AS 47.17.050 is amended to read:

4       Sec. 47.17.050. IMMUNITY. Except as provided in (b) of this  
5 section, a [A] person who complies with this chapter and [, IN GOOD  
6 FAITH,] makes an immediate good faith [A] report of child abuse or  
7 neglect [UNDER THIS CHAPTER], or who participates in judicial proceed-  
8 ings related to the submission of reports under this chapter, is  
9 immune from [ANY] civil or criminal liability that [WHICH] might  
10 otherwise be incurred or imposed as a result of making the report,  
11 except that a person who makes an untimely report is not immune from  
12 civil or criminal liability based on the delay in making the report.

13 \* Sec. 13. AS 47.17.050 is amended by adding a new subsection to read:

14       (b) Notwithstanding (a) of this section, a person accused of  
15 committing the child abuse or neglect is not immune from civil or  
16 criminal liability as a result of reporting the child abuse or ne-  
17 glect.

18 \* Sec. 14. AS 47.17.064(a) is amended to read:

19       (a) The department or a practitioner of the healing arts may,  
20 without the permission of the parents, guardian, or custodian, take  
21 the following actions with regard to a child who the department or  
22 practitioner has reasonable cause to suspect has [BELIEVED TO HAVE]  
23 suffered physical harm as a result of child abuse or neglect:

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

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

29 \* Sec. 15. AS 47.17.068 is amended to read:

1           Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who  
2 [KNOWINGLY] fails to comply with the provisions of [OR REFUSES TO  
3 REPORT AS REQUIRED UNDER] AS 47.17.020 or 47.17.023, knowing of the  
4 circumstances giving rise to the need for a report, is guilty of a  
5 class B misdemeanor.

6 \* Sec. 16. AS 47.17.070(2) is amended to read:

7           (2) "child abuse or neglect" means the physical injury or  
8 neglect, mental injury, sexual abuse, sexual exploitation, or mal-  
9 treatment of a child under the age of 18 by a person [WHO IS RESPONSI-  
10 BLE FOR THE CHILD'S WELFARE] under circumstances that [WHICH] indicate  
11 that the child's health or welfare is harmed or threatened thereby;

12 \* Sec. 17. AS 47.17.070(3) is amended to read:

13           (3) "child care provider" means an adult individual, in-  
14 cluding a foster parent or an employee of an organization, who pro-  
15 vides care and supervision to a child for compensation or reimburse-  
16 ment;

17 \* Sec. 18. AS 47.17.070(9) is amended to read:

18           (9) "practitioner of the healing arts" includes chiroprac-  
19 tors, mental health counselors, dental hygienists, dentists, health  
20 aides, nurses, nurse practitioners, occupational therapists, occupa-  
21 tional therapy assistants, optometrists, osteopaths, naturopaths,  
22 physical therapists, physical therapy assistants, physicians, physi-  
23 cian's assistants, psychiatrists, psychologists, psychological associ-  
24 ates, audiologists licensed under AS 08.11, hearing aid dealers li-  
25 censed under AS 08.55, religious healing practitioners, and surgeons;

26 \* Sec. 19. AS 47.17.070 is amended by adding new paragraphs to read:

27           (11) "criminal negligence" has the meaning given in AS 11.-  
28 81.900;

29           (12) "immediately" means as soon as is reasonably possible,

1 and within 24 hours;

2 (13) "maltreatment" means behavior that harms or threatens a  
3 child's health or welfare, and includes conduct that results in a  
4 controlled substance, as defined in AS 11.71.900, being found in a  
5 newborn child's blood or urine unless administration of the controlled  
6 substance to the mother or child was authorized under AS 17.30;

7 (14) "mental injury" means an injury to the emotional well-  
8 being, or intellectual or psychological capacity of a child, as evi-  
9 denced by an observable and substantial impairment in the child's  
10 ability to function;

11 (15) "reasonable cause to suspect" means cause, based on all  
12 the facts and circumstances known to the person, that would lead a  
13 reasonable person to suspect that something might be the case;

14 (16) "school district" means a city or borough school dis-  
15 trict or regional educational attendance area;

16 (17) "sexual abuse" means criminal conduct under AS 11.41.-  
17 410 - 11.41.455.

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## PRESS COPY

BY THE JUDICIARY COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 450

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 child abuse and neglect."

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

8 \* Section 1. AS 47.17.010 is amended to read:

9 Sec. 47.17.010. PURPOSE. In order to protect children whose  
 10 health and well-being may be adversely affected through the inflic-  
 11 tion, by other than accidental means, of harm through physical injury  
 12 [ABUSE] or neglect, mental injury, [OR] sexual abuse, [OR] sexual  
 13 exploitation, or maltreatment, the legislature requires the reporting  
 14 of these cases by practitioners of the healing arts and others to the  
 15 department. It is not the intent of the legislature that investiga-  
 16 tions of suspected child abuse or neglect be conducted by those who  
 17 are required to make reports. Reports must be made when there is a  
 18 reasonable suspicion of child abuse or neglect in order to make state  
 19 investigative and social services available in a wider range of cases  
 20 at an earlier point in time, to make sure that investigations regard-  
 21 ing child abuse and neglect are conducted by trained investigators,  
 22 and to avoid subjecting a child to multiple interviews about the abuse  
 23 or neglect [APPROPRIATE PUBLIC AUTHORITIES]. It is the intent of the  
 24 legislature that, as a result of these reports, protective services  
 25 will be made available in an effort to prevent further harm to the  
 26 child, to safeguard and enhance the general well-being of the children  
 27 in this state, and to preserve family life whenever possible.

28 \* Sec. 2. AS 47.17.020(a) is amended to read:

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

1 occupational duties, have reasonable cause to suspect [CAUSE TO BE-  
2 LIEVE] that a child has suffered harm as a result of child abuse or  
3 neglect shall immediately report the harm to the nearest office of the  
4 department:

5 (1) practitioners of the healing arts;

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

8 (3) social workers;

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

11 (5) administrative officers of institutions;

12 (6) child care providers;

13 (7) paid employees of domestic violence and sexual assault  
14 programs, and crisis intervention and prevention programs as defined  
15 in AS 18.66.900;

16 (8) paid employees of an organization that provides coun-  
17 seling or treatment to individuals seeking to control their use of  
18 drugs or alcohol.

19 \* Sec. 3. AS 47.17.020(b) is amended to read:

20 (b) This section does not prohibit the named persons from re-  
21 porting cases that have come to their attention in their nonoccupa-  
22 tional capacities, nor does it prohibit any other person from report-  
23 ing a child's harm that the person has reasonable cause to suspect  
24 [CAUSE TO BELIEVE] is a result of child abuse or neglect. These  
25 reports shall be made to the nearest office of the department.

26 \* Sec. 4. AS 47.17.020(c) is amended to read:

27 (c) If the person making a report of harm under this section  
28 cannot reasonably contact the nearest office of the department and  
29 immediate action is necessary for the well-being of the child, the

1 person shall make the report to a peace officer. The peace officer  
2 shall immediately take [IMMEDIATE] action to protect the child and  
3 shall, at the earliest opportunity, notify the nearest office of the  
4 department.

5 \* Sec. 5. AS 47.17.020(e) is repealed and reenacted to read:

6 (e) The department shall immediately notify the nearest law  
7 enforcement agency if the department

8 (1) concludes that the harm was caused by a person who is  
9 not responsible for the child's welfare;

10 (2) is unable to determine

11 (A) who caused the harm to the child; or

12 (B) whether the person who is believed to have caused  
13 the harm has responsibility for the child's welfare; or

14 (3) concludes that the report involves

15 (A) possible criminal conduct under AS 11.41.410 -  
16 11.41.455; or

17 (B) abuse or neglect that results in the need for  
18 medical treatment of the child.

19 \* Sec. 6. AS 47.17.020 is amended by adding a new section to read:

20 (f) If the department or a law enforcement agency determines  
21 that a child has been abused or neglected and that the harm was caused  
22 by a teacher or other person employed by the school in which the child  
23 is enrolled as a student, the department or law enforcement agency  
24 shall, at the earliest possible opportunity, notify the principal of  
25 the school in which the teacher or other person is employed. The  
26 notification must set out the factual basis for the department's or  
27 law enforcement agency's determination. Within 10 days after receiv-  
28 ing notification from the department or law enforcement agency under  
29 this subsection about a person in the teaching profession, as defined

1 in AS 14.20.370, the principal shall file a report with the Profes-  
2 sional Teaching Practices Commission that sets out the name of the  
3 teacher and the information received from the department or law en-  
4 forcement agency under this subsection.

5 \* Sec. 7. AS 47.17.022 is amended to read:

6 Sec. 47.17.022. TRAINING. (a) A person employed by the state  
7 or a school district who is required under this chapter to report  
8 abuse or neglect of children shall receive training on the recognition  
9 and reporting of child abuse and neglect.

10 (b) Each department of the state and school district that em-  
11 ploys persons required to report abuse or neglect of children shall  
12 provide

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

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

18 (c) Each department and school district that must comply with  
19 (b) of this section shall develop a training curriculum that acquaints  
20 its employees with

21 (1) laws relating to child abuse and neglect;

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

24 (3) agencies and organizations within the state that offer  
25 aid or shelter to victims and the families of victims of child abuse  
26 or neglect; and

27 (4) procedures for required notification of suspected abuse  
28 or neglect.

29 (d) Each department and school district that must comply with

1 (b) of this section shall file a current copy of its training curricu-  
2 lum and materials [,] with the Council on Domestic Violence and Sexual  
3 Assault. A department or school district may seek the technical  
4 assistance of the council or the Department of Health and Social  
5 Services in the development of its training program.

6 \* Sec. 8. AS 47.17.023 is amended to read:

7 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person  
8 who, in the course of processing or producing visual or printed mat-  
9 ter, either privately or commercially, has reasonable cause to suspect  
10 [REASON TO BELIEVE] that the matter visually depicts a child engaged  
11 in conduct described in AS 11.41.455(a) shall immediately [PROMPTLY]  
12 report this to the nearest law enforcement agency, and provide the law  
13 enforcement agency with all information known about the nature and  
14 origin of the matter.

15 \* Sec. 9. AS 47.17.025(a) is amended to read:

16 (a) A law enforcement agency shall immediately notify the de-  
17 partment of the receipt of a report of harm to a child from abuse by a  
18 person responsible for the child's welfare. Upon receipt from any  
19 source of a report of harm to a child from abuse by a person responsi-  
20 ble for the child's welfare, the department shall notify the Depart-  
21 ment of Law and investigate the report and, within 72 hours of the  
22 receipt of the report, shall provide a written report of its investi-  
23 gation of the harm to a child from abuse to the Department of Law for  
24 review.

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

26 Sec. 47.17.027. DUTIES OF SCHOOL OFFICIALS. If the department  
27 or a law enforcement agency determines that there is reasonable cause  
28 to suspect that a child has been abused or neglected by a person  
29 responsible for the child's welfare, or as a result of conditions

1 created by a person responsible for the child's welfare, school offi-  
2 cials shall permit the child to be interviewed at school by the de-  
3 partment or a law enforcement agency before notification of, or re-  
4 ceiving permission from, the child's parent, guardian, or custodian.

5 \* Sec. 11. AS 47.17.040(b) is amended to read:

6 (b) Investigation reports and reports of harm filed under this  
7 chapter are considered confidential and are not subject to public  
8 inspection and copying under AS 09.25.110 and 09.25.120. However, in  
9 accordance with department regulations, investigation reports may be  
10 used by appropriate governmental agencies with child-protection func-  
11 tions, inside and outside the state [ALASKA], in connection with  
12 investigations or judicial proceedings involving child abuse, neglect,  
13 or custody. A person, not acting in accordance with department regu-  
14 lations, who recklessly makes public information contained in confi-  
15 dential reports is guilty of a class B misdemeanor.

\* Sec. 12. AS 47.17.050 is amended to read:

Sec. 47.17.050. IMMUNITY. Except as provided in (b) of this  
section, a [A] person who complies with this chapter and [, IN GOOD  
FAITH,] makes an immediate good faith [A] report of child abuse or  
neglect [UNDER THIS CHAPTER], or who participates in judicial proceed-  
ings related to the submission of reports under this chapter, is  
immune from [ANY] civil or criminal liability that [WHICH] might  
otherwise be incurred or imposed as a result of making the report,  
except that a person who makes an untimely report is not immune from  
civil or criminal liability based on the delay in making the report.

\* Sec. 13. AS 47.17.050 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, a person accused of  
committing the child abuse or neglect is not immune from civil or  
criminal liability as a result of reporting the child abuse or

1 neglect.

2 \* Sec. 14. AS 47.17.064(a) is amended to read:

3 (a) The department or a practitioner of the healing arts may,  
4 without the permission of the parents, guardian, or custodian, take  
5 the following actions with regard to a child who the department or  
6 practitioner has reasonable cause to suspect has [BELIEVED TO HAVE]  
7 suffered physical harm as a result of child abuse or neglect:

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

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

13 \* Sec. 15. AS 47.17.068 is amended to read:

14 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who  
15 [KNOWINGLY] fails to comply with the provisions of [OR REFUSES TO  
16 REPORT AS REQUIRED UNDER] AS 47.17.020 or 47.17.023, knowing of the  
17 circumstances giving rise to the need for a report, is guilty of a  
18 class B misdemeanor.

19 \* Sec. 16. AS 47.17.070(2) is amended to read:

20 (2) "child abuse or neglect" means the physical injury or  
21 neglect, mental injury, sexual abuse, sexual exploitation, or mal-  
22 treatment of a child under the age of 18 by a person [WHO IS RESPONSI-  
23 BLE FOR THE CHILD'S WELFARE] under circumstances that [WHICH] indicate  
24 that the child's health or welfare is harmed or threatened thereby;

25 \* Sec. 17. AS 47.17.070(3) is amended to read:

26 (3) "child care provider" means an adult individual, in-  
27 cluding a foster parent or an employee of an organization, who pro-  
28 vides care and supervision to a child for compensation or reimburse-  
29 ment;

1 \* Sec. 18. AS 47.17.070(9) is amended to read:

2 (9) "practitioner of the healing arts" includes chiroprac-  
3 tors, mental health counselors, dental hygienists, dentists, health  
4 aides, nurses, nurse practitioners, occupational therapists, occupa-  
5 tional therapy assistants, optometrists, osteopaths, naturopaths,  
6 physical therapists, physical therapy assistants, physicians, physi-  
7 cian's assistants, psychiatrists, psychologists, psychological associ-  
8 ates, audiologists licensed under AS 08.11, hearing aid dealers li-  
9 censed under AS 08.55, religious healing practitioners, and surgeons;

10 \* Sec. 19. AS 47.17.070 is amended by adding new paragraphs to read:

11 (11) "Immediately" means as soon as is reasonably possible,  
12 and within 24 hours;

13 (12) "maltreatment" means ill-treatment that harms or  
14 threatens a child's welfare, and includes conduct that causes a child  
15 to be born with a controlled substance, as defined in AS 11.71.900, in  
16 the child's blood or urine;

17 (13) "mental injury" means an injury to the emotional well-  
18 being, or intellectual or psychological capacity of a child, as evi-  
19 denced by an observable and substantial impairment in the child's  
20 ability to function, with due regard to the child's culture;

21 (14) "reasonable cause to suspect" means cause, based on all  
22 the facts and circumstances known to the person, that would lead a  
23 reasonable person to suspect that something might be the case;

24 (15) "recklessly" has the meaning given in AS 11.81.900;

25 (16) "school district" means a city or borough school dis-  
26 trict or regional educational attendance area;

27 (17) "sexual abuse" means criminal conduct under AS 11.41.-  
28 410 - 11.41.455, or any other sexual behavior that harms or threatens  
29 a child's health or welfare.

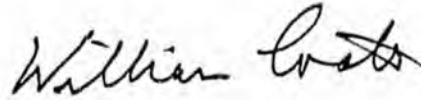
ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, ALASKA

ASD MEMORANDUM #175 (89-90)

January 8, 1990

TO: SCHOOL BOARD

FROM: OFFICE OF THE SUPERINTENDENT



SUBJECT: CHILD ABUSE AND NEGLECT REPORTING PROCEDURES

PERTINENT FACTS:

The Anchorage School District has established procedures in administrative manuals and the school nurse's handbook for reporting child abuse and neglect. Last year alone District personnel reported 688 cases of suspected child abuse and neglect to the Division of Family and Youth Services, State of Alaska.

In 1986 a change in the state law occurred which required training for all employees of the District who are required to report abuse or neglect of children. (AS 47.17.022). The District complied with this by doing District-wide training in the 1986-87 school year for all employees required to report. The statutes also required training on an ongoing basis for new employees within six months of employment. Last spring, in an effort to revise and update our training activities, a review of existing procedures was begun. We had scheduled an in-service for school nurses for October 17, 1989 to review and provide information on the training of new to the District teachers. Because of the concerns raised regarding the recent police department search and investigation of one case which we did report, we decided to have our October 17, 1989 in-service placed on hold. We did a comprehensive review of our updated procedures and asked our legal counsel to review these also. Attached are the DRAFT revised procedures.

We are actively seeking input from a wide range of affected groups. We have disseminated for comment this DRAFT to our employee bargaining groups, school administrators, community agencies such as the Division of Family and Youth Services - State of Alaska (DFYS), the law enforcement agencies and other interested groups such as the Anchorage Council of PTA.

The procedures will be placed on the consent agenda for first reading for School Board action on January 15, 1990 and second reading on February 12, 1990. Through this process the public and members of the school community are invited to present testimony directly to the School Board.

WC/BC/dc

Attachment

**DRAFT**

ANCHORAGE SCHOOL DISTRICT

PROPOSED

CHILD ABUSE AND NEGLECT

REPORTING PROCEDURES

JANUARY 1990

# DRAFT

## I. PROVISIONS OF LAW.

### A. Introduction.

School teachers, school administrators and administrative staff members, practitioners of the healing arts, and others, are required by law to make reports when they have cause to believe that child abuse or neglect has resulted in harm to a child. This obligation is an individual legal duty. Reports made in good faith in performance of this duty result in absolute immunity for the reporter from being sued civilly or being prosecuted criminally. On the other hand, a knowing failure to report may result in criminal prosecution. The procedures and definitions provided below are designed to assist all school district employees in fulfilling their obligations under this law. In cases where an individual is uncertain as to whether or not cause to believe child abuse or neglect has occurred, a team approach should be utilized. However, this approach does not relieve any individual from the obligation to report once they conclude that there is cause to believe that child abuse or neglect has occurred. See Section IV.B.

Reports must be made by telephone, followed by a written report, to the Division of Family and Youth Services (DFYS) whenever there is cause to believe that a child has suffered abuse or neglect. See Section IV.B. and C. Additionally, a copy of the written report must be forwarded to the police department when

there is cause to believe that the child abuse or neglect was inflicted by a person who is not responsible for the child's welfare or where the identity of the person who is responsible for the child's welfare cannot be determined, or where the identity of the person believed to have committed the abuse is unknown or cannot be determined. See Section IV.D.

It is essential that all school district employees familiarize themselves with the reporting requirements and definitions set forth below. A working knowledge of these definitions and requirements will enable you to comply with your legal duties in fulfilling these challenging obligations.

## B. The Reporting Requirement.

Employees of the district are required by law and Board Policy to immediately report to the nearest office of the Department of Health and Social Services, Division of Family and Youth Services (DFYS), instances where, in the performance of their professional duties, they have cause to believe that a child has suffered harm as a result of child abuse or neglect. If an employee making a report of harm cannot reasonably contact the nearest office of DFYS, and immediate action is necessary for the well-being of the child, the employee shall make the report to a peace officer. (AS 47.17.020; Board Policy 474.1)

## C. Immunity.

Any employee who, in good faith, reports suspected child abuse or neglect, or who participates in judicial proceedings related to

submission of these reports of child abuse or neglect is immune from any civil or criminal liability which might otherwise be incurred or imposed. (AS 47.17.050, Attachment 1)

D. Failure to Report.

Any employee of the district who wilfully or knowingly fails to make a report of child abuse or neglect required by law and school policy, is subject to criminal prosecution and is further subject to disciplinary action by the district, up to, and including termination of employment for cause. (AS 47.17.068; Board Policy 474)

II. PERSONS REQUIRED TO REPORT (AS 47.17.020).

A. School teachers, which includes any person serving in a teaching or counseling capacity and required to be certificated in order to hold the position. Also included are teacher's aides, substitute teachers, tutors, coaches, instructors and other personnel in the employ of the school district to provide educational or social services to the students of the district.

B. School Administrators and Administrative Staff Members, which includes persons employed by the district in the capacity of administrators, school principals or assistant principals, supervisors, managers, directors, or coordinators.

C. Practitioners of the Healing Arts, which includes persons employed in the capacity of chiropractors, dental hygienists, dentists, health aides, nurses, nurse practitioners, occupational therapists, occupational therapy assistants, optometrists,

osteopaths, naturopaths, physical therapists, physical therapy assistants, physicians, physician's assistants, psychiatrists, psychologists, psychological associates, audiologists, (licensed under AS 08.11), hearing aid dealers (licensed under AS 08.55), religious healing practitioners, and surgeons.

D. Police Liaison Officers.

E. Others, as identified by Alaska statute.

III. DEFINITIONS.

A. "Child Abuse or Neglect" [AS 47.17.070(2)]. Child abuse or neglect means the physical injury or neglect, sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby (authority: AS 47.17.070, Attachment 1).

B. "Neglect" [AS 47.17.070(6)] means the failure to provide necessary food, care, clothing shelter or medical attention for a child.

C. "Cause to Believe" exists where, based on the total circumstances, including direct observation, knowledge and information gained from others, and the exercise of professional judgment, a person has a good or adequate reason, supported by specific and identifiable facts, to believe that child abuse or neglect has occurred or is occurring. Cause to believe is less than a probability, but more than a mere suspicion, conjecture, or

inkling.

D. "Sexual Exploitation" includes

1. allowing, permitting, or encouraging a child under the age of 18 years to engage in prostitution prohibited by AS 11.66.100-11.66.150, by a person responsible for the child's welfare; or

2. allowing, permitting, encouraging, or engaging in activity prohibited by AS 11.41.455(a), by a person responsible for the child's welfare.

E. "Person Responsible for the Child's Welfare" [AS 47.17.070(8)] means the child's parent, guardian, foster parent, a person responsible for the child's care at the time of the alleged child abuse or neglect, or a person responsible for the child's welfare in a public or private residential agency or institution.

#### IV. REPORTING PROCEDURES.

A. When Cause To Believe Exists.

Any district employee having cause to believe that child abuse or neglect as described in Section I, above, has occurred shall follow these procedures in reporting the abuse or neglect:

1. Inform the building principal/administrative designee of the child abuse or neglect;

2. Make a telephone report to the Division of Family and Youth Services (DFYS), call 276-1450 (for Anchorage reports), or call 694-9546 (for Eagle River reports).

(i) Request an intake case worker or screener. Obtain the name of the case worker, note the time and date the call was made and enter on the written report form.

(ii) Report the injury or circumstances, and any other pertinent information related to the cause, source, frequency or duration of the child abuse or neglect, including a description of the home situation, if known.

(iii) State your name, title and school. You also may indicate whether your name may or may not be used by DFYS during the investigation.

(iv) If there is a problem contacting DFYS, notify the principal/administrative designee. The principal may contact an ASD supervisor to seek additional assistance in contacting a DFYS case worker or supervisor. If immediate action is necessary for the well-being of the child, make a telephone report to the Police Department: 786-8500 (for Anchorage reports) or 694-2715 (for Eagle River reports), or 269-5511 (Alaska State Troopers).

**B. When Unsure of Existence of Cause to Believe.**

Any district employee uncertain about the existence of cause to believe that child abuse or neglect has occurred or is occurring shall utilize the following team approach:

1. Inform the building principal/administrative designee of the facts or circumstances which give rise to the employee's concerns. The principal/administrative designee may designate an assistant principal, nurse, counselor or psychologist to observe, examine or talk to the child, in order to determine whether there is, or is not cause to believe that the child has suffered harm as the result of child abuse or neglect.

2. The person designated to investigate shall observe or examine the child, and may confer with any other district employees who may be in a position to have information relevant to the inquiry. The investigator may confer with the teacher, or teachers, for the history relating to the child, and gather any other information which may support or refute the need for reporting.

3. The investigator shall report the results of the investigation to the principal/administrative designee and all other district employees involved in the initial report to the principal and/or the subsequent investigation.

The team alternative is designed to develop additional information and to permit consultation among the district employees involved to assist them in determining whether there is cause to believe that child abuse or neglect has occurred in a particular case.

4. When two or more members of the investigative team

reach agreement one may be designated to make the required telephone report to the appropriate agency. The written report shall indicate the names of the individuals who agree that a report is necessary and show their concurrence that the report is being made on their behalf. If the investigative team decides no report is necessary but an individual member of the team believes there is cause to believe that child abuse or neglect has occurred, that individual must make the required report. The duty to report child abuse or neglect described in Section I above, is an individual duty. No district employee shall fail to make a report if that person has cause to believe such a report is required by law or district policy. No person making such a report shall be subject to any sanction by the school district for making the report. The team alternative is designed to develop additional information and permit consultation among the district employees involved to assist them in determining whether there is cause to believe that child abuse/neglect is occurring in a particular case.

5. The duty to report is a continuing one. If additional information creates cause to believe that child abuse or neglect has occurred or is occurring, a report must be made, even though cause as to the same child was previously insufficient.

C. Written Reports Required.

Within 24 hours of making a telephone report of child abuse or neglect, the employee shall prepare a written report. The original copy shall be routed as follows:

1. for Anchorage reports:

Division of Family and Youth Services  
550 West 8th Avenue, Suite 201  
Anchorage, AK 99501

2. for Eagle River reports:

Division of Family and Youth Services  
Parkgate Building  
11723 Old Glenn Highway, #113  
Eagle River, AK 99577

The report shall be made on an official school district form available at the principal's office or from the central administration building. (phone \_\_\_\_\_). The report shall include:

1. The names and addresses of the child and the child's parent or guardian.
2. The child's age.
3. A description of the facts, injuries or circumstances giving rise to cause to believe that child abuse or neglect occurred or is occurring.
4. Any information that might assist determining the cause of any injuries and the identity of persons responsible for causing harm to the child.
5. Any statements made by the child, including graphic quotes, if any.

6. The names of any other persons who may have information relevant to the child abuse or neglect.

7. The state or municipal agency to which the telephonic report was made, including the name of the person to whom the report was made, and the date and time of the telephonic report.

A copy of the report shall be routed to the principal. The principal shall sign the report and maintain it in a confidential file labeled "Child Abuse and Neglect Referrals - Confidential." These reports will be maintained at the school for a minimum of seven years. The reports will not be maintained with individual student school records nor will they be forwarded with individual student school records.

If the principal/administrative designee has conducted, or had an investigator conduct an investigation to determine whether cause to report suspected child abuse or neglect exists, the principal/administrative designee shall attach all investigative notes, memoranda, records of interviews photographs and other information collected to the report.

**D. Copy of Written Report to Police.**

When a telephonic and written report have been made to the Division of Family and Youth Services (DFYS), a copy of the written report shall also be forwarded to the nearest law enforcement agency in those cases where the employee has cause to believe that the harm was caused by

- 001.5.4.1
1. a person who is not responsible for the child's welfare;
  2. a person whose identity is unknown and cannot be determined; or
  3. a person whose responsibility for the child's welfare is unknown and cannot be determined.

The nearest law enforcement agency is as follows:

1. for Anchorage reports:

Chief of Police  
Anchorage Police Department  
4501 S. Bragaw  
Anchorage, Alaska 99507

2. for Eagle River reports:

Chief of Police  
Anchorage Police Department  
16707 Coronado Street  
Eagle River, Alaska 99577

E. Maintaining Confidentiality.

All school district employees are required to protect students' rights to privacy and confidentiality. As such, all information and reports regarding child abuse or neglect shall be treated as confidential and shall be maintained in a safe place. No employee shall make available, or allow access to this information by other students, staff or members of the public, except as required by school rule, Board Policy or law.

The principal shall maintain the confidentiality of all reports of child abuse and neglect received, other than making the

reports available to the appropriate agencies to which the reports were initially made. The principal shall make provisions to protect, and to maintain as confidential, the identity of the employee or employees making the report.

V. STUDENT INTERVIEWS.

Student interviews regarding child abuse and neglect must be conducted in accordance with Board Policy 471.4, and the Memorandum of Agreement between the Division of Family and Youth Services and the Anchorage School District. (Attachments 3, 4)

VI. EMERGENCY CUSTODY.

In any case where a representative of the Division of Family and Youth Services informs the district in writing that emergency custody of a student is being asserted pursuant to AS 47.10.142, the district shall immediately relinquish custody of the student to the representative of DFYS. In all such cases it shall be the responsibility of the DFYS to notify the parent/guardian as soon as practicable that the DFYS has assumed custody of the child. (Attachment 4)

VII. CHILD ABUSE AND NEGLECT TRAINING FOR PERSONS REQUIRED TO REPORT.

A. The principal shall ensure that persons required to report child abuse or neglect will receive training in the recognition and reporting of child abuse and neglect during the employee's first six months of employment, and to any employee who

has not received equivalent training. (AS 47.17.022, Attachment 1)

B. Training shall include:

- the laws relating to child abuse and neglect;
- techniques for recognition and detection of child abuse and neglect;
- agencies and organizations within the state that offer aid and shelter to victims and families of victims of child abuse or neglect; and
- procedures for required notification of suspected abuse or neglect.

C. Documentation of child abuse and neglect training shall be sent to the Staff Development Department by January 31 of each school year. (Attachment 4)

Attachments:

1. Child Abuse and Neglect Reporting Law, Alaska Statutes Chapter 17, Sec. 47.010-47.17.070
2. Referral Form to Division of Family and Youth Services (ASD #326)
3. Board Policy 471.4
4. Memorandum of Agreement between the Anchorage School District and State of Alaska, Department of Health and Social Services (Division of Family and Youth Services)
5. Child Abuse and Neglect Training Form
6. Child Abuse and Neglect Report Form
7. Criminal Prostitution Law, Alaska Statute, Chapter 66, Sec. 11.66.100-11.66.150

§ 47.15.040

ALASKA STATUTES

§ 47.17.010

diction the institution is operated, or whose department or agency is charged with performing the service. (§ 3 ch 88 SLA 1960)

**Sec. 47.15.040. Financial arrangements.** The compact administrator, subject to the approval of the commissioner of administration, may make or arrange for the payments necessary to discharge the financial obligations imposed upon this state by the compact or by a supplementary agreement made under the compact. (§ 4 ch 88 SLA 1960)

**Sec. 47.15.050. Appointment of attorney or guardian.** Appointment of an attorney or guardian ad litem under the provisions of this compact shall be made in accordance with AS 25.24.310 or AS 44.21.400 — 44.21.440. (§ 5 ch 88 SLA 1960; am § 55 ch 94 SLA 1980; am § 16 ch 55 SLA 1984)

**Cross references.** — See Admin. R. 13, Alaska Rules of Court.

**Effect of amendments.** — The 1984 amendment rewrote this section, which formerly read "A council or guardian ad

litem appointed under the provisions of this compact may be paid as provided in the Rules Governing the Administration of all Courts."

**Sec. 47.15.060. Enforcement.** The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which are within their respective jurisdiction. (§ 6 ch 88 SLA 1960)

**Sec. 47.15.070. Additional procedures not precluded.** In addition to the procedures provided in articles IV and VI of the compact for the return of a runaway juvenile, the particular states, the juvenile or the juvenile's parents, the courts, or other legal custodian involved may agree upon and adopt any plan or procedure legally authorized under the laws of this state and the other respective party states for the return of the runaway juvenile. (§ 7 ch 88 SLA 1960)

**Sec. 47.15.080. Short title.** This chapter may be cited as the Uniform Interstate Compact on Juveniles. (§ 8 ch 88 SLA 1960)

## Chapter 17. Child Protection.

### Section

- 10. Purpose
- 20. Persons required to report
- 25. Duties of public authorities
- 30. Action on reports; termination of parental rights
- 40. Central registry; confidentiality

### Section

- 50. Immunity
- 60. Evidence not privileged
- 64. Photographs and x-rays
- 68. Penalty for failure to report
- 70. Definitions

**Sec. 47.17.010. Purpose.** In order to protect children whose health and well-being may be adversely affected through the infliction, by

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§ 47.17.020 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.17.020

other than accidental means, of harm through physical abuse or neglect or sexual abuse or sexual exploitation, the legislature requires the reporting of these cases by practitioners of the healing arts and others to the appropriate public authorities. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to prevent further harm to the child, to safeguard and enhance the general well-being of the children in this state, and to preserve family life whenever possible. (§ 1 ch 100 SLA 1971; am § 3 ch 104 SLA 1982)

Effect of amendments. — The 1982 amendment, in the first sentence, substituted "neglect or sexual abuse or sexual exploitation" for "neglect requiring the attention of a practitioner of the healing arts" and inserted "of the healing arts"

NOTES TO DECISIONS

Use of reports. — The reports of child abuse and neglect required by this section are intended for use in child protection proceedings and are not intended for use in

criminal proceedings. State v. R.H., Ct. App. Op. No. 375 (File No. 7768), P.2d (1984). See also notes to AS 47.17.060, under catchline "Judicial proceeding."

Collateral references. — 42 Am. Jur. 2d, Infants, §§ 16, 17.  
43 C.J.S., Infants, §§ 36 to 39, 70 to 75, 84.

Medical attention, criminal neglect by failure to provide, 12 ALR2d 1047.

Liability of parent for injury to unemancipated child caused by parent's negligence, 41 ALR3d 804.  
Validity and construction of penal statute prohibiting child abuse, 1 ALR4th 38.

Sec. 47.17.020. Persons required to report. (a) The following persons who, in the performance of their professional duties, have cause to believe that a child has suffered harm as a result of abuse or neglect shall immediately report the harm to the nearest office of the department:

- (1) practitioners of the healing arts;
- (2) school teachers and school administrative staff members;
- (3) social workers;
- (4) peace officers, and officers of the Department of Corrections;
- (5) administrative officers of institutions;
- (6) licensed day care providers and paid staff;
- (7) licensed foster care providers.

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

*see Supplement*

(c) If the person making a report of harm under this section cannot reasonably contact the nearest office of the department and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall take immediate action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department. (§ 1 ch 100 SLA 1971; am §§ 4, 5 ch 104 SLA 1982; am E.O. No. 55, § 42 (1984))

**Effect of amendments.** — The 1982 amendment, in subsection (a), added "and school administrative staff members" at the end of paragraph (2) and added paragraphs (6) and (7).

The 1984 amendment substituted "Department of Corrections" for "division of corrections" in paragraph (4) of subsection (a).

#### NOTES TO DECISIONS

Cited in *State v. R.H.*, Ct. App. Op. No. 375 (File No. 7768), P.2d (1964).

**Collateral references.** — Civil liability of physician for failure to diagnose or report battered child syndrome, 97 ALR3d 338.

**Sec. 47.17.025. Duties of public authorities.** (a) A law enforcement agency shall immediately notify the department of the receipt of a report of harm to a child from abuse. Upon receipt from any source of a report of harm to a child from abuse, the department shall notify the Department of Law and investigate the report and, within 72 hours of the receipt of the report, shall provide a written report of its investigation of the harm to a child from abuse to the Department of Law for review.

(b) The report of harm to a child from abuse required from the department by this section shall include:

- (1) the names and addresses of the child and the child's parent or other persons responsible for the child's care, if known;
- (2) the age and sex of the child;
- (3) the nature and extent of the harm to the child from abuse;
- (4) the name and age and address of the person known or believed to be responsible for the harm to the child from abuse, if known;
- (5) information that the department believes may be helpful in establishing the identity of the person believed to have caused the harm to the child from abuse. (§ 6 ch 104 SLA 1982)

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§ 47.17.030 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.17.030

NOTES TO DECISIONS

Applied in State v. R.H., Cl. App. Op.  
No. 375 (File No. 7768), P.2d  
(1984).

Sec. 47.17.030. Action on reports; termination of parental rights. (a) If a child, concerning whom a report of harm is made, is believed to reside within the boundaries of a local government exercising health functions for the area in which the child is believed to reside, the department may, upon receipt of the report, refer the matter to the appropriate health or social services agency of that local government. For cases not referred to an agency of a local government, the department shall, for each report received, investigate and take action, in accordance with law, which may be necessary to prevent further harm to the child or to insure the proper care and protection of the child.

(b) A local government health or social services agency receiving a report of harm shall, for each report received, investigate and take action, in accordance with law, which may be necessary to prevent further harm to the child or to insure the proper care and protection of the child. In addition, the agency receiving a report of harm shall forward a copy of its report of the investigation, including information the department requires by regulation, to the department.

(c) Action shall be taken regardless of whether the identity of the person making the report of harm is known.

(d) Before the department or a local government health or social services agency may seek the termination of parental rights, under AS 47.10.080(c)(3), it shall offer protective social services and pursue all other reasonable means of protecting the child.

(e) In all actions taken by the department or a health and social services agency of a local government under this chapter that result in a judicial proceeding, the child shall be represented by a guardian ad litem in that proceeding. Appointment of a guardian ad litem shall be made in accordance with AS 25.24.310. (§ 1 ch 100 SLA 1971; am § 1 ch 222 SLA 1976; am § 17 ch 55 SLA 1984)

Effect of amendments. — The 1984 amendment added the second sentence in subsection (e).

NOTES TO DECISIONS

Effect of subsection (d). — Subsection (d) of this section is clearly intended to prevent further abuse by providing protective services to the child, and it does not place a mandatory duty on the state to pro-

vide counseling and other support services to the family prior to seeking termination of parental rights. E.A. v. State, Sup. Ct. Op. No. 2289 (File Nos. 4687, 4870), 623 P.2d 1210 (1981).