

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672
9213 HOUSE JUDICIARY



Alaska State Legislature

Please enter into the record my testimony to the HESS Committee
committee name

committee on HB 375, dated March 12, 1998
bill/subject

Dear Representatives:

I urge you separate the foster care language from the crimes against children portion. We need PL 105-89 implemented desperately. The two areas combine will leave chaos in its path. Please divide so we can review the criminal sections and adhere to the federal sections

Signed: Marc Schmitt
Testifier

Representing (Optional)
2040 Wasilla Fishhook Rd Wasilla 99654
Address

907-357-3618
Phone No.

WHAT'S HAPPENING: Meet

MONDAY, March 16, 1998



**LYNNE
CURRY**

Fired worker is threat

Question: We just fired a counselor for back-handing a child in his care. This guy has quite a temper and needless to say the firing interview scene wasn't pretty. His parting shot was we'd rue the day we fired him and he'd pay us back if we didn't give him a positive reference when he went for a better job. We assured him that we'd say only positive things about him and that I'd write him a positive letter of reference. I'm concerned because he told me he'd come back tomorrow to pick it up.

Answer: Rue the day how? Is this man violent? If so, you'll want to take precautions such as contacting the police and temporarily retaining a security guard if you feel this man might return to your work site and harm managers, employees or children.

Next, visit an attorney and learn the legal issues that affect any reference comments you give concerning your former employee. You risk legal consequences if you give a favorable recommendation for an employee dismissed for violence on the job. If he becomes violent while working for an employer who hires him based on your reference, anyone he hurts can sue you.

Because your former employee apparently works in jobs in which he deals with children, you need to exercise special care. In *Randi W. vs. Livingston Union School District*, the school hired an administrator based on excellent references from three former employers. What these prior employers

Please see Page F-4, **CURRY**

Continued from Page F-1

failed to mention was they'd each dismissed this administrator for sexual misconduct. When the administrator molested a 13-year-old student in his office, the student's family sued each of the former employers. Court rulings found each former employer liable for fraud and misrepresentation. In addition to these legal concerns, how will you feel if your former employee hurts a child he encounters in his next job?

Continued on Page F-4, CURRY



Alaska State Legislature

Please enter into the record my testimony to the House - HESS
 committee name
 committee on HB # 375 . dated March 20th '98
 bill/subject

HB # 375 - Scrap the bill.
 It would take an ~~enormous~~ ^{pernicious} amount of
 fixing in order for this bill to become
 more inline with the Federal "Adoption & Safe
 Families Act of 1997" for which, I understand,
 this bill was intended to be written under. It
 appears to me that families, safe families, &
 adoption only should be in this bill & Not the
 sections for criminalizing non-payment of child-
 support, & Not any immunity sec. Please refer to
 Mura Schmidt's letter sent / posted on March 12th.

Signed: Carol Palmer
 Testifier

myself & "Parents United" for Custodial Justice
 Representing (Optional)

PO Box 2402, Palmer, AK 99645
 Address

(907) 746-2863
 Phone No

AFR-01-1996 10:24

GLN LIO

1987825591 P.01



Alaska State Legislature

Please enter into the record my testimony to the House Health, Education & Social Services committee name

committee on HB 375 , dated 3-20-98 .
bill/subject

3 pages

Signed: Carrie McKee
Testifier

self
Representing (Optional)

Po Box 2246, Homer, AK 99603
Address

Phone No.

(1)

We the undersigned residents of this state of Alaska, intimately know the family lifestyle of Carrie Mckee and her upbringing of her 6 children. We feel that the actions and allegations perpetrated against Carrie Mckee, and the unwarranted removal of her children from her home are highly illegal, and in itself destructive to this family.

We demand that the McKee children be returned to their home with their mother immediately and the person and/or persons involved in this illegal and unwarranted action be investigated and held accountable for their violations and the damage that has been done to Carrie Mckee and all 6 of her children.

NAME	ADDRESS	PHONE
Charlotte Bradford	P.O. Box 940221 Houston	892-2082
Joy (MAD)	P.O. Box 87893 Wasilla AK	99687
Margie E. Nelson	P.O. Box 521585 Big Lake	99652
Betty Lowe	P.O. Box 877692 Wasilla AK	99687
Ernie G. Gumbro	P.O. Box 407 Palmer AK	99645
Christal Williams	P.O. Box 876807 Wasilla AK	746-3676
Mark Coert	P.O. Box 521131 Big Lake	376-3132
Robert J. August		376-4476
Patricia Kay Hicks		946-5251 (Palmer)
Robert	P.O. Box Big Lake	746-7782
Mark Hill	Mile 57 1/2 Road	None
John J. Yarn	P.O. Box 225 TALKIE TRAIL AK	733-1416
Lizette Nantz	M. KAMUW. Box 728 TRAIL AK	733-1416
Amy J. [unclear]	P.O. Box 878323 Wasilla, AK	99687-7789 376-5615
JERRY NELSON	P.O. Box 521585 Big Lake	99652
Edna Sullivan	Box 1027	PALMER AK 99645
Doug Johnson	P.O. Box 521585 Wasilla	N/A
Dona Olson	P.O. Box 872713 WAS AK	
Kenneth G. [unclear]	P.O. Box 940212 Houston AK	
Franklin [unclear]	P.O. Box 873462 Wasilla AK	
Shirley A. Wheeler	P.O. Box 520016 Big Lake AK	
Dennis R. Lonck	P.O. Box 3694 Palmer AK	
Queen Kivry	P.O. Box 521585 WASILLA AK	
Paul [unclear]	P.O. Box 878157 Wasilla AK	698-95
Robert C. [unclear]	P.O. Box 520264 Big Lake AK	99652
[unclear]	Big Lake AK	99652
Shirley [unclear]	P.O. Box 873252 Wasilla AK	

6

(2)

We the undersigned residents of this state of Alaska, intimately know the family lifestyle of Carrie Mckee and her upbringing of her 6 children. We feel that the actions and allegations perpetrated against Carrie Mckee, and the unwarranted removal of her children from her home are highly illegal, and in itself destructive to this family.

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NAME	ADDRESS	PHONE
Robert L. Montgomerie	P.O. Box 520208 529 Lake Park AK 99652	892-6515
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David Olson	P.O. Box 290 271 Houston, AK 99694	892-7082
W. J. Woodgett	P.O. Box 873614 Wasilla, AK 99687	373-5866
W. J. Woodgett	P.O. Box 873614 Wasilla, AK 99687	373-5866
Mr. Bruce Martensen	P.O. Box 52149 Big Lake, AK	892-6761
Lee McLean	12100 Gregory Ave AK	345-9342
Lynne Meltzer	Box 273853 Wasilla AK 99687	746-2457
Christina	P.O. Box 3643 Wasilla, AK 99687	376-2915
Marilyn Reed	P.O. Box 871427 Wasilla AK 99687	376-2799
Bob Barton	P.O. Box 8643 Palmer AK 99645	376-7915
Maria Lynn	5256 Jil Ni	376-4247
Robert W. Cook	P.O. Box 875601, WASILLA	373-5701
Mareli Katiola	H.C. 30 Box 12850 Wasilla	376-6037 message
Lucinda	P.O. Box 3684 Palmer, AK	746-5077
Clyde A. Knott	P.O. Box 872765 Wasilla AK	746-1326
Priscia Blodgett	P.O. Box 873614 Wasilla AK	373-5866
Esther Jenkins	1830 S. Park Ave STE 157 99654	376-6458
Shonda L. Dubois	1520 E. Park St STE 157 99654	376-2188
Bill Nilsen	Box 872969 Wasilla AK 99687	373-0535
Judith C. Hendrick	P.O. Box 520187 Big Lake	272-3670
R. Lee Hendricks	P.O. Box 520187 Big Lake	11 11
Nancy Deaver	335 S. Cobb St Palmer, AK 99645	746-3013
Debbie Lewis	H.C. 32 Box 6872 Wasilla, AK 99684	376-8460
Rita Harvey	P.O. Box 874827 Wasilla AK 99687	376-3353
Sherry Rio	P.O. Box 876514 Wasilla AK 99687	892-7940
George Deaver	P.O. Box 100342 Anchorage AK 99510	745-5660

March 17, 1998

To the people of Alaska
To Governor Tony Knowles
To my state legislators and committee members:

I am writing this letter in response to the proposed bills regarding the protection of children that are before us. We must take a serious hard look at these before we proceed with any of them. Many of these laws are mandated or tied to federal funds. If we don't pass the laws the federal government wants then we won't get the federal money for these programs. What we want for Alaska and what the federal government wants for Alaska are not always the same. Lets not let federal money dictate to us how we want Alaska's families taken care of. I would like to caution you about a few major problems that have occurred in other states with similar laws on the books.

My aim first and foremost is the PROTECTION OF CHILDREN AND FAMILIES.

All child protection laws should be written not to intervene and separate families. These laws must do there best to maintain the family integrity and provide services to the family and children.

Too many times I have seen children removed from their homes against their will, and against the will of their parents and family without regard to how damaging the result of this removal is.

One of the most severe types of abuse that can be perpetrated against a child and family comes from the state. The act of removing a child from his(her) home and placing that child in foster care is simply devastating and can cause severe emotional distress and long lasting emotional problems. There is also the problem of that child's safety outside of his(her) parents custody.

A foster parent is no better then a natural parent when you look at a cross section of society. There are just as many children abused by foster parents as by natural parents. Taking children out of there homes and placing them in foster care is not the answer. It also further damages the child by placing him(her) n the company of other abused children. Removing a child from his(her) home should be a last resort and should take into account what the child wishes. There must always be clear and convincing evidence that child abuse has occurred.

Too often children services decide for the children and their families what is best for them. The judges are basically powerless in these situations to do anything because if they intervene and leave the child with his parents and something does occur then the judge becomes the person responsible for the abuse. No judge is willing to take that chance, thus the children services people become the judge and jury in these cases. Even if the judge feels there is probably no abuse he will often rule on the side of children services just to protect himself.

The child can be separated from his(her) family for many months while the state delays the case. Thus causing further severe child abuse in the form of separation of a child from there family. These cases often take many months or years to be completed due to delays caused by the prosecution. Thus the idea of severing parental rights after 1 year of

foster care is further abuse by the state. Normal families can have their lives completely destroyed in a matter of months. Their homes lost, their jobs or business lost and their life savings drained in a very short time trying to protect themselves and their children from the state.

Whatever the laws read, there must be clear and convincing evidence that a crime has occurred before children can be removed from a home. The only exception to this rule should be when the child themselves requests separation from a parent. Even with this it must be clear that this is what the child really wants. Often times a child would rather be placed in the care of a Grandparent, Aunt or Uncle or older sibling. Almost no child wants the state to come into their family and remove them and their siblings and place them in foster care.

We have many laws already to protect children. We arrest the abusers. Children placed in foster care often feel they are the one that are being arrested and punished. One needs to take into account the fact that removing a child from his(her) home in a non-abusive situation is just as abusive as leaving the child in a bad situation.

All too often states take children out of homes while they try to make a case. These people have no regard as to how the child or parents feel. Removing a child from his(her) home should be a last resort not a first act of protection or prevention. If a child must be removed from his(her) family then the agency in charge of doing this should have to prove with clear and convincing evidence that there is a problem. If they remove a child needlessly then the agency responsible should be held accountable. Workers who routinely remove children needlessly should be able to be prosecuted just as a child abuser is prosecuted.

Children Services should be held accountable for their action as the public is placing their trust of our children in their hands. All too often children and families are abused needlessly by the state because of the possibility that there may be a problem. This country is based on the promise that all people are innocent until proven guilty. This must hold true in the case of children also. Keep in mind that children are protected by these laws also and if they request help they should be given this help. This could also include removal from an abusive family. But there must be clear and convincing evidence that a crime has occurred.

Another problem with bills in other states is the ability of the State to remove a child from his school and have them taken to a doctor. Up front this sounds fine but when you look closely at this practice you realize what kind of power this puts in the hands of the state children services division. Think of this: Every day when you send your child to school you have to face the real life fear that your child may be removed by force from his(her) school against their will and taken to a doctor of the state's choosing not your own. Forget about the laws that say you decide where your children go to see a doctor. The state decides in this case who the child is going to see.

During these doctor exams these children are subject to pelvic and anal exams. Video taped during their exams and asked leading sexual questions in a Gestapo type interview. Often non-medical people are present during these exams and a multitude of medical people are standing around while the child is left lying on a bed. Examinations which can be most embarrassing and intrusive to adults are even more painful and emotionally upsetting to a child. The pain and emotional abuse caused by these exams on children without their parents at their side can be devastating and stay with them for the

rest of their lives. Parents should not have to fear every day when they send their children to school that this can happen to them.

You say this could not happen to my child listen to how it can:

A husband and wife are separating. The wife is afraid the father will seek custody of the children. She does not want this so she calls DYS to complain of sexual abuse, thinking he will never get custody. She is right he won't. Even an accusation, even if it is never proved is enough to prevent a judge from ever giving this father custody. In the mean time however the children will be removed from their home or school, examined by doctors and maybe placed in foster care while the state decides if there is enough evidence to proceed.

During this time the father will be forbidden any contact with his children. This includes letters, phone calls, and even supervised contact with his children. The father from this day forward will always be assumed guilty of abusing his children. It is up to the father to prove he is innocent rather than the wife to prove he is guilty.

This can also occur when a brother in law, mother in law or some one else is trying to separate a husband and wife. (boyfriends, girlfriends etc.) . This type of complaint from an outside person such as a girlfriend, almost always causes the state to remove all of the children from the home. The state thinks the mother maybe a party to the abuse. This type of false accusation can cost a family their jobs, homes and upwards of \$100,000 in a few very short weeks or months. It can also cause severe emotional abuse for the children and parents. Many times these kind of cases end in suicide. Often times there is protection written into the law for these people to protect them from being sued for slander. Anyone who charges someone else should realize the seriousness of their action and must be held accountable if they accuse someone falsely or maliciously. Whenever some one says a man is guilty of sexual abuse we always assume they are guilty. This charge, even if it is never proven can stay with him and his family the rest of their lives.

Often times these sexual abuse charges have no basis at all. Maybe a guy looks funny or some one doesn't like him. This can result in accusations. We get to the point where a father is not allowed to have any contact with his children for fear of being accused of sexual abuse. These charges can be as simple as a mother or father who allow their 3-4 year old to go to the bathroom or take a bath with the door open.

Another so called "problem" that is often used by child protective services to remove children from their homes is when children sleep with their parents. What parent has not had a 3 year old come to their parents bed after a nightmare or when they were lonely. Should that child be turned away and spanked and sent to their room. I think not, I want to be able to comfort my child and make him feel better, not isolate and leave him alone.

A third problem that often comes up is when one sibling is allegedly touching or abusing another sibling. These are often very minor situations and are not so much sexual abuse but simply normal childhood discovery. These children should be helped and taught that this is not proper behavior. All parties involved could receive counseling including the parents on preventing further problems. These children should not be labeled as Sexual abusers and have to register and carry this label the rest of their lives. The states role should be in helping families not in making problems worse. They should not have their lives destroyed and their parents lives destroyed because of these types of situations that often occur in normal families.

A fourth problem is the fact that Children services have a job to protect children. This puts a lot of pressure on the workers to remove children, rather than fully investigate problems. A worker who removes a child from a home, finds a problem and gets a conviction is doing a good job. This puts a lot of pressure on workers to "find" problems so that they can "fix" them. Even if no problem existed in the first place. Workers are judged by how many families they help. Not by how many they don't find a problem with. Thus the worker must try to find a "problem", no matter how small so that they can "fix" it. This includes years of therapy etc. Fear and anxiety generated just so that a worker can fix a problem that was not there can cause problems down the road for other children. Problems generated by this premature protection and removal is the fact that victims of state abuse will never call for help in their own families later. They know how abusive the state can be.

I hope you take heed of my warnings and protect yourself and the children of Alaska from the problems associated with too much protection from the state.

Thank you for your time.
Alaska State resident



Family Training Associates

P.O. Box 81016, Fairbanks, Alaska 99708
Phone: (907) 479-7461

March 24, 1998

TO WHOM IT MAY CONCERN:

Try to imagine a world where every child grows up in a safe and nurturing environment. Try to imagine it even just for Alaska. It's a possibility, but only if we begin caring today about the fate of children in every family, in every community, across our state.

The SMART START initiatives for Alaska's families are a *smart* way to insure that children in our state remain a focus of prevention efforts. Alaska's kids depend on your support of HB 375. DO IT!

Thank you .

Carol H. Brice

Carol H. Brice, RN, MEd.

March 24, 1998

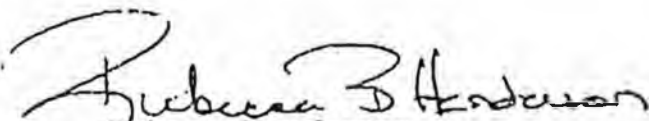
I am writing in support of HB 375, the Smart Start Initiative.

We read too much today in all our newspapers about Alaska's children not measuring up. Many of these kids have the potential to do the job you're doing today. Without the support of programs that will be supported by Smart Start, many of those same kids don't have a chance.

Sure, they get to go to school, but they don't go to school ready to learn. They get sick more often, they go without good meals, they live in homes where violence is the norm.

GIVE THEM A BREAK!

Thanks for supporting HB 375.



Rebecca Henderson
P.O. 82717
Fairbanks, AK 99708

DATE: April 2, 1998

TO: The House Health, Education and Social Service Committee 3 P.M. Discussion
C/O Representative Con Bunde

TESTIMONY FOR - HB 375

GIVEN BY Bernadine Janzen 376-0366
Fax. (907)376-0366

My name is Bernadine Janzen and my husband, myself and our two adopted children live in Wasilla. I address you today as a person who lives "In the Trenches" with two siblings who were severely neglected and abused. Our children were adopted from Washington State after we moved to Alaska. They have been with us now 5 years. At the time of adoption they were 7 and 9 1/2 years old. Today the children are 13 and almost 14 1/2 years old. While we were given parts of their tragic story there were areas of their life that had been lost or unread by overburdened social workers. We searched for answers of "Why", "How" and "What" would cause our children to act without remorse or conscience. Three years ago, through much searching and requesting of files, we discovered more of their past. While we knew of the neglect and abuse we did not know the depth it had gone..... We grieve for our children's lost childhood's.

At ages 1 and 2 1/2 our children were saved by State intervention. For the next 3 years my children spent time moving back and forth to biological mom's home only to be removed again and again due to her inability to stay clean. Each time our children were replaced in yet another, different foster home. Each time their belongings were placed in their luggage of black trash bags. After all the physical and sexual abuse, my children suffered more abuse from a State, who meaning well, moved them again and again. At ages 4 and 5 1/2 years old mom's rights were terminated and our children moved from one unsuccessful placement to another with the State now attempting to find permanency for their young lives. Even at this young age, they were, "very hard to wear" children. The foster placements which had intended to adopt our children changed their minds after 6-8 months due to the children's disruptive behaviors.

We almost did not adopt these two children after living with them for a year. Our reality was they were going to be difficult to rear. Their reality was more foster homes after us. If a high school principal and a B.S. in Correctional Recreation could not do this..... who could. We believed that with love and consistency we could help them have a better life. We found this not to be enough. They need so much more for their wounded hearts.

My husband and I understand more of the "Why" they are the way they are. Now we need to learn "How" and "What" we can do to help our children understand:

- a) We will not allow you to self mutilate
- b) Fire is not a way to express your anger
- c) Destroying property is an unacceptable way to express frustration
- d) It is not kind to beat up on younger and weaker beings just because you can

Please consider four areas as you continue your work. 1) Mental Health Issues of neglected and abused children 2) Monitoring abused and neglected children as they age 3) How many moves is to many? 4) Assault or Battery Convictions

Nation wide we have 50% disruption rate in older "special needs" children. For Governor Knowles to achieve the "strong family" in Alaska this committee must be sensitive to children of extreme abuse and neglect and the mental health issues which they bring with them. While I have read the information I find only several brief references to mental health. Families adopting the Seriously/Severely Emotionally Disturb child must be trained to help change "thinking errors" these children may have about care givers. Assigning a therapist will not be enough.

While DFYS has been sensitive to our needs as a family they have had policies and laws that have prohibited them from supporting the needs of S/SED children who were neglected and abused children. Many of these children were pre-verbal when abuse was inflicted on them. They have triggers that run so deep know one could be expected to know what to look for. Our society reels from youth violence. Currently schools are a prime target for children who are expressing their rage. Logical consequences become abusive, innocent "jarrings" in the hallway trigger a "fight or flight response" or rejections from a girl set off abandonment issues. Many young are expressing rage with guns. We would like you to consider, as part of prevention, monitoring abused and neglected children as they age. They do what was done to them. They will neglect and abuse their own children. To truly protect the future generation the neglected and abused child of today will need close supervision.

We hope the team will also be very sensitive to; How many moves is to many? We know that to have homes that are ready and willing to take children in a moments notice is to say the least, impossible. We have pro and con feelings about orphanages. Our children only suffered 10 different moves. What is a "timely manner" for placement? Please, let's not be a State that adds to the child's mental health issue of "attachment" by "home hopping" them. Please be pro-active in this area.

It is my understanding that you will be looking at Sex Offenders, Domestic Violence Offenders and Alcohol/Drug Offenders as being restricted from the lives of our children. We would also, ask you to include in this category those who have Assault and Battery Convictions. While a wife or girlfriend might not file a report on her husband or boyfriend someone in the community may. We need to look at all acts of violence and unhealthy living as potential abusers of our children.

A child's cries of,"IT'S NOT FAIR!".... cannot express loud enough what was done to our children and what we know is probably happening to another child this moment; somewhere in Alaska.

We applaud your very hard work. We support HB 375. Please contact us if there is anything we can answer or with anything we can be of help. Thank you for your time

CSHB 375 "F"	CSHB 375 "B"	HB 375 A"	Subject	Statutes
1	1	1	Intent & Policy	
2	2	2		10.06.961(a)
3	3	3	Murder One	11.41.100(a)
4	4	4	Murder Two	11.41.110(a)
5	5	6	Kidnapping	AS11.41.300(a)
6	6	7	Kidnapping	11.41.300(d)
7	7	8	Indecent Exposure One	11.41.458
8	8	9	Indecent Exposure Two	AS11.41.460
9	9	10	Endangering Welfare One	AS11.51.100
10	10	11	Endangering Welfare Two	11.51.110
11	11	12	Criminal non-support	AS11.51.120(a)
12	12	12		11.51.120(c)
13	13	none		12.55.025(i)
14	14	13		AS12.55.125(c)
15	15	14	Penalties for Crimes	12.55.125(k)
16	none	none		AS12.55.155(e)
17	16	17	Death Reporting	AS12.65.005(a)
18	17	18	Fatality Team	AS12.65.015
19	18	19	Records/Duties/ Confidentiality (Immunity)	AS12.65.000
20	19	20	Teachers Certificates Revoked	AS14.20.020(f)
21	20	21		AS14.20.030(b)
22	21	23	Functions/Powers District Judges/Magistrate	AS22.15.100
23	23	none	Termination	25.23.180(c)
24	24	1	Findings	47.05.065
25	25	25	Adoption Compact	47.05.090
26	26	26	Construction	AS47.10.005
27	27	27	Jurisdiction	47.10.010
28	28	28	Children in Need of Aid	AS47.10.011
29	29	29		AS47.10.020
30	30	30		AS47.10.020(b)
31	none	none	Proceeding Notice	AS47.10.030(b)
32	31	31		AS47.10.050(a)
33	32	none	Foster Parents\ Others Testify	AS47.10.070(a)
34	33	33	Adjudication Hearing 120 days after probable cause	AS47.10.080(a)
35	34	34	Commitment	47.10.080(c)
36	36	35		47.10.080(f)
37	37	36	Appeal CINA	47.10.080(i)
38	38	37	Permanency Hearing	47.10.080(l)
39	39	38	CINA if Incarcerated	47.10.080(o)
40	40	none	Visitation	47.10.080



Petersburg Mental Health Services, Inc.

Post Office Box 556

Petersburg, AK 99833

(907) 772-3332

To: Con Bunde

From: Susan Ohmer, LCSW
Director

Re: House Bill 375
Crimes Against Children

Date: April 2, 1998

It has come to my attention that changes are being made which prevent DFYS social workers from working with a family and protecting children who witness domestic violence. The implication is that DFYS intervention is unnecessary if the child is "only witnessing" abuse rather than feeling herself or himself the back of a hand.

In my experience as director of PMHS, let me state emphatically that the idea that a child's well-being and even SAFETY is not in danger when living in a violent home is incorrect. Every day our agency treats children who are experiencing the sequelae of abuse and of witnessing the abuse of others. Every day we see the impact of what violence and abuse in the home does to children.

Alaska has the highest rate of domestic violence in the nation. Child abuse is 15 times more likely to occur in families where domestic violence is present. Therefore, it can be said that living in such a home automatically puts them at significant risk for abuse as well. Why tie the hands of DFYS social workers to intervene?

Alaskan children have nearly the highest rate of victimization in the nation. Children who witness violence have a variety of responses: behavioral difficulties, emotional difficulties, post-traumatic stress symptoms, attachment difficulties, and learning well that VIOLENCE DOES WORK to get what you want.

As a professional working in the field of trauma, I am alarmed what the changes proposed in this bill would cause for my child clients.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

CSHB 375 "F"	CSHB 375 "B"	HB 375 "A"	Subject	Statutes
1	1	1	Intent & Policy	
2	2	2		10.06.961(a)
3	3	3	Murder One	11.41.100(a)
4	4	4	Murder Two	11.41.110(a)
5	5	6	Kidnapping	AS11.41.300(a)
6	6	7	Kidnapping	11.41.300(d)
7	7	8	Indecent Exposure One	11.41.458
8	8	9	Indecent Exposure Two	AS11.41.460
9	9	10	Endangering Welfare One	AS11.51.100
10	10	11	Endangering Welfare Two	11.51.110
11	11	12	Criminal non-support	AS11.51.120(a)
12	12	12		11.51.120(c)
13	13	none		12.55.025(i)
14	14	13		AS12.55.125(c)
15	15	14	Penalties for Crimes	12.55.125(k)
16	none	none		AS12.55.155(e)
17	16	17	Death Reporting	AS12.65.005(a)
18	17	18	Fatality Team	AS12.65.015
19	18	19	Records/Duties/ Confidentiality (Immunity)	AS12.65.000
20	19	20	Teachers Certificates Revoked	AS14.20.020(f)
21	20	21		AS14.20.030(b)
22	21	23	Functions/Powers District Judges/Magistrate	AS22.15.100
23	23	none	Termination	25.23.180(c)
24	24	1	Findings	47.05.065
25	25	25	Adoption Compact	47.05.090
26	26	26	Construction	AS47.10.005
27	27	27	Jurisdiction	47.10.010
28	28	28	Children in Need of Aid	AS47.10.011
29	29	29		AS47.10.020
30	30	30		AS47.10.020(b)
31	none	none	Proceeding Notice	AS47.10.030(b)
32	31	31		AS47.10.050(a)
33	32	none	Foster Parents\ Others Testify	AS47.10.070(a)
34	33	33	Adjudication Hearing 120 days after probable cause	AS47.10.080(a)
35	34	34	Commitment	47.10.080(c)
36	36	35		47.10.080(f)
37	37	36	Appeal CINA	47.10.080(i)
38	38	37	Permanency Hearing	47.10.080(l)
39	39	38	CINA if Incarcerated	47.10.080(o)
40	40	none	Visitation	47.10.080

CSHB 375 "E"	CSHB 375 "B"	HB 375 "A"	Subject	Statutes
41	41	39	Best Interests of the Child	47.10.082
42	44	40	Reasonable Efforts /Termination	AS47.10
43	45	41	Confidential \ Privileged Information	AS47.10.092(a)
44	46	42	Information Disclosure	AS47.10.093(b)
45	48	43		AS47.10.141(f)
46	49	none	Habitually Absent	AS47.10.141(g)
47	49	45	Emergency Custody	AS47.10.142(a)
48	51	46	Custody of Child Runaway	AS47.10.142(c)
49	52	none	Plan Review	AS47.10.142(h)
50	53	53	Duty of Care	AS47.10.960
51	54	47	Definition- Care	AS47.10.990(1)
52	55	none	Definition-CINA	47.10.990(2)
53	56	48	Definitions	47.10.990
54	57	49	Information Disclosure	47.12.310(b)
55	none	none	Foster Home Arrangements	47.14.100(a)
56	none	none	Foster Care-DFYS	47.14.100(d)
57	34 (#2)	none	Foster Care-Relatives	47.14.100(e)
58	34 (#1)	none	Out of Home Care	47.14.100
59	59	none	Review Panel-Review	47.14.240(d)
60	60	none	Review Panel-Court	47.14.240(h)
61	62	52	Multidisciplinary Child Protection Team	AS47.14.300
62	63	54	Definition-CINA	AS47.14.990(2)
63	63	55	Report of Harm	AS47.17.020(a)
64	none	none	Reporting Requirements	AS47.17.020
65	65	none		AS47.17.030(d)
66	none	none	Protective Injunctions	AS47.17.030
67	65	56	Investigation	47.17.033
68	none	none	DV Appropriate Steps	47.17.035(b)
69	67	57	Maltreatment	AS47.17.290-8
70	68	58	Application Requirements	AS47.35.017(b)
71	69	59	Foster Care Placement	AS47.35.022
72	70	60	Placement \ Emergency	AS47.35.023(b)
73	71	61	Notification	AS47.35.047(b)
74	72	62	Definitions	47.35.900
75	73	63	Repealed Statutes	AS47.10.080(k)/99 0(7)
76-80	74-78	64-80	Court Rule Amendments Effective Date	



Petersburg Mental Health Services, Inc.

Post Office Box 556

Petersburg, AK 99833

(907) 772-3332

To: Con Bunde

From: Susan Ohmer, LCSW
Director

Re: House Bill 375
Crimes Against Children

Date: April 2, 1998

It has come to my attention that changes are being made which prevent DFYS social workers from working with a family and protecting children who witness domestic violence. The implication is that DFYS intervention is unnecessary if the child is "only witnessing" abuse rather than feeling herself or himself the back of a hand.

In my experience as director of PMHS, let me state emphatically that the idea that a child's well-being and even SAFETY is not in danger when living in a violent home is incorrect. Every day our agency treats children who are experiencing the sequelae of abuse and of witnessing the abuse of others. Every day we see the impact of what violence and abuse in the home does to children.

Alaska has the highest rate of domestic violence in the nation. Child abuse is 15 times more likely to occur in families where domestic violence is present. Therefore, it can be said that living in such a home automatically puts them at significant risk for abuse as well. Why tie the hands of DFYS social workers to intervene?

Alaskan children have nearly the highest rate of victimization in the nation. Children who witness violence have a variety of responses: behavioral difficulties, emotional difficulties, post-traumatic stress symptoms, attachment difficulties, and learning well that: VIOLENCE DOES WORK to get what you want.

As a professional working in the field of trauma, I am alarmed what the changes proposed in this bill would cause for my child clients.

Dale Stone
Chief of Police

PETERSBURG
POLICE DEPARTMENT

Bruce Westre
Captain

Phone (907) 772-3838

P.O. Box 329, Petersburg, Alaska 99833

FAX (907) 772-3504

2 April 1998

Rep. Con Bunde
Chair - House Committee on Health, Education, and Social Services

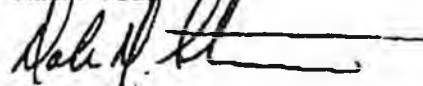
Representative Bunde:

It has been brought to my attention that House Bill 375, Child Protection, has been modified by deletion of certain language. This deleted language authorized DFYS to act in cases where children, although not the direct victims of personal violence, nonetheless are repeatedly exposed to acts of domestic violence.

I fear deletion of this language implies that children are not legitimate victims because they do not suffer direct harm from repeated exposure to acts of domestic violence. Of course we all know that such an implication would not be based on fact. Volumes of research conclude that children are severely effected by being exposed to violence within the family unit. The truth is, domestic violence is a crippling social cancer that is perpetuated through the learned behavior of individuals growing up in an atmosphere of violence. These individuals often become involved in other crimes in addition to domestic violence. As a police officer, I continually observe this reality. Unless the pattern of learned violence can be broken, police are forced to deal with the effects of domestic violence for generations.

Although time does not allow me to adequately express my strong feelings on this issue, I earnestly request you not modify this bill, in any way, that limits the authority of DFYS to act as necessary in these situations. Provide DFYS with the tools they need to be proactive in dealing with the obscenity of children being conditioned to think that violence is "normal" behavior.

Thank You



Dale Stone
Chief of Police

cc: DFYS

CENTRAL COUNCIL
TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA
P.O. BOX 1418
PETERSBURG, ALASKA 99833

FACSIMILE TRANSMITTAL SHEET

TO	FROM	
REP. CON BUNDY, CHAIR	Cathy Boyington, S.S.A. II	
HOUSE COMMITTEE ON HEALTH EDUCATION AND SOCIAL SERVICES	Central Council, Petersburg	
COMPANY:	DATE	TIME
	April 2, 1998	
FAX NUMBER: 465-3871	TOTAL NO OF PAGES INCLUDING COVER: 2	
	PHONE NUMBER	SENDER'S PHONE NUMBER
	(907) 772-4080	
RE:	FAX NUMBER:	
MODIFICATION: HOUSE BILL 375	(907) 772-3637	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS

REPRESENTATIVE CON BUNDY,
IT HAS COME TO MY ATTENTION THAT MODIFICATIONS HAVE
BEEN PROPOSED THAT AMEND HOUSE BILL 375, ESSENTIALLY
DELETING LANGUAGE THAT WOULD GIVE STATE DIVISION
OF YOUTH AND FAMILY SERVICES SOCIAL WORKERS THE
POWER TO INTERVENE IN CHILDRENS LIVES WHERE
DOMESTIC VIOLENCE IS AN ISSUE. IT IS ESSENTIAL THAT THIS
ISSUE REMAIN IN THE LANGUAGE OF THE BILL.
DOMESTIC VIOLENCE DIRECTLY IMPACTS THE LIVES OF
CHILDREN RESIDING IN HOMES WHERE THIS IS AN ISSUE.
THIS IS AN OPPORTUNITY FOR OUR STATE TO DIRECTLY
IMPACT THE LIVES OF THESE CHILDREN. IMPACT STUDIES
SUPPORT THIS STATEMENT. WE KNOW THAT THERE ARE
BOTH SHORT AND LONG TERM MENTAL/EMOTIONAL.

CONSEQUENCES FOR THESE SILENT VICTIMS OF DOMESTIC VIOLENCE.

PLEASE DO NOT ALLOW THIS BILL TO BE AMENDED!!!

THIS IS AN OPPORTUNITY FOR OUR STATE TO BE PROACTIVE IN OUR APPROACH TO WORKING WITH THE VIOLENCE THAT TOUCHES CHILDRENS LIVES EVERY DAY.



Alaska State Legislature

Please enter into the record my testimony to the HR 375 committee name

committee on HB 375 dated 2/1/90
bill/subject

HR 375 is based on the Federal Child Abuse and Neglect Act of 1988. There is no doubt about the extreme uses of this act. HR 375 is outrageous.

HR 375 is a combination of FCSA and the Child Abuse Bill of Rights which was not ratified by US Senate.

Signed: Jana J. Buffington
Testifier
Children's Rights Council
Representing (Optional)
317 Maple Road - 99604
Address
486-2290
Phone No.

Homeowner Facing Trial in Child Endangerment Case

By Judith Schumann Weizner

Jim Fawcett, a 42-year-old married father of two, faces the possibility of a 30-year jail sentence if he is found guilty in next week's trial on charges of child endangerment as well as on several lesser violations. Federal prosecutors say the charges against Mr. Fawcett stem from his attempt to avoid complying with two provisions of the Federal Child Safety and Education Act of 1996 (FCSA).

Fawcett was charged following an inspection of new bathroom fixtures installed in his home in the Paradise district of Jamaica City, California, in which the fixtures were judged to be non-compliant.

A year ago, when Fawcett first submitted his plans to the Family City Department and Kitchen & Bathroom Board, he was told he must install a tanked faucet that would conform to Regulation 5 of the City's Minimum Bathroom and Kitchen Remodeling Code, which especially highlights the installation of knobby style faucets in homes where there are children under the age of 12, or where children are allowed to visit. Child regulations were added to the building code following the strangulation death of a 12-year-old whose collar got caught on the cold water faucet at his family's bathtub as the children attempted to give it a bath. The children, now in their teens, are all receiving treatment for post-traumatic stress disorder.

Fawcett installed the approved hardware, but his wife initially discovered that she could manipulate it only with difficulty and severe pain, as she suffers from carpal tunnel syndrome. He applied for an exemption to the regulation, but was turned down on grounds that the presence of children in the home rendered the shelling a Class C-1 procedure under the FCSA. The Board did, however, advise Fawcett of the alternative of buying an adapter that could be kept in a locked cabinet in the bathroom for use when no children were present in the house.

The adapter made it possible for his wife to use the new fixtures comfortably, but the storage cabinet was not what the children had to be taken out of the house while she bathed, and then, because the pain in her wife's wrists made it impossible for her to use the screwdriver required for the removal of the adapter, Fawcett had to remove the mounted hardware, as well as she was frustrated by this. Also, since the adapter could not be used in the presence of children, Fawcett had to clean in the bathroom while his wife bathed their younger daughter, Tiffany, in order to adjust the temperature of the water, as well as to turn it on and off.

Although the Fawcetts found the regulations onerous, they agreed that within a month Mr. Fawcett's company required him to

submit a two-week warranty waiver in New York and be responsible for having Tiffany left in the bathroom Mrs. Fawcett, who, after two painful attempts to use the new fixtures, hired a plumber to install the adapter, which resembled



JIM FAWCETT

it place in the rest of her husband's absence.

Upon his return from New York, Mr. Fawcett removed the adapter and took over the bathing chores, while Mrs. Fawcett resumed the washing of the dinner dishes, which she had previously given up due to the pain in her wrists. The arrangement continued for several months without any major problems until their eight-year-old daughter, Katherin, mentioned to her Family Choice teacher that her father had assumed the responsibility of bathing her little sister. That evening, the Fawcetts' family had a visit from the City's Family Liaison Officer.

Mrs. Fawcett explained that the situation had arisen due to her disability, namely, carpal tunnel syndrome, for which she was currently receiving payments from her former employer, but the Family Liaison Officer informed her that this did not exempt the family from compliance with Paragraph 47-a of Title XIII of the FCSA, which requires that children be bathed by a member of the same sex. Mr. Fawcett was arrested and charged with child endangerment. (Subsequently, tipped off by a remark overheard in a banking alley, the police arrested the plumber, who agreed to install a new one in return for immunity to charges that would have resulted otherwise.)

The Federal Child Safety & Education Act was passed last year with unprecedented public support drafted by the First Lady's address at the Annual World Village Child Welfare Congress in Jakarta in 1996. While some experts predicted that compliance with certain provisions of the law might have a chilling effect on the economy, it appears that the new law has instead had some unexpected economic benefits.

Much to the irritation of the automobile industry, such as their parking garages and repair

shops, the requirement that adults in the eighties be backed by a parent of the same sex has prompted the creation of a new category of workers: 1-of-a-kind, for example, since Katherin's City teacher, an unpaid public employee, the work force of a public for the end of the first teaching day Katherin, a substitute of Day-care Coach, office supervisor by a recently certified birth mother at birth given by a parent of the opposite sex. Due to the large number of single-parent families and the high cost of the system, a 2-year-old program like Katherin's now provides thousands of well-paid jobs and 100-thousand jobs for those willing to take the time to bring to federal certification. Many former military recipients have received their training from the Federal Child Safety and Education Administration's Adult Certification Model Program and have entered the workforce.

Over the years, many women without the money to pay for the approved supervision. The Fawcetts are also types that by not requiring two parent families to use these services. The XIII Family Liaison Officer's report against such parents.

Lawyer, in a recent address of the Ethics School of West Wall, the First Lady called the nation's attention to the costs of child custody and proposed the establishment of a Federal Bath Board under the Department of Health and Human Services, that would ease the financial burden on parents to comply for child custody in meeting the requirements of Title XIII without having to hire private bath monitors. It is likely that some version of the XIII will be created as a part of the FCSA.

Mr. Fawcett's supporters are hoping that despite his case will be the introduction of his second wife's evidence. With one parent completing the bathing of a three-and-a-half-year-old child, and one for removing the bath room from his daughter's bed. Mr. Fawcett is virtually guaranteed to get the charge of parental neglect dropped. The use of an adapter, carrying the same weight as the bathtub, might be a better alternative. It is likely that the child endangerment charge, the Ethics School's warning. A conviction for parental neglect would add more years to 10 years.

Representatives of the Justice Department are still considering a change of implementation of an adapter, regulates Mrs. Fawcett's case and their own limited, but it is clear that the law will be changed at a time that is for the family's compliance in child care. Personal responsibility can find children's workers that do not need to be made their daughter's bath monitor. For the government's sake, the law

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Please call (800) 752-6562 ext. 209 to order.





Alaska State Legislature

Please enter into the record my testimony to the WESS Committee
committee name
 committee on HR 375, dated April 2, 1998
bill/subject

Dear Committee Members :

Please allow a reading of this revised bill one more time. Having a 15yr old in crisis and in need of protection from emotional abuse. PL 105-89 needs to be passed in its entire portions, not bits & pieces. As a child advocate for over 6 yrs I am heartbroken that this is not being considered. Foster parents like Mrs. Graham are experiencing these problems daily. Terminating parental rights are not being emphasizes clearly, as well as, protecting parental rights when ~~bad~~ false charges are laid. Our children need their rights protected by the law and not by adding to DFYS power to pick & choose who is protected and who is not. Thank you

Signed: Marci Schmelz
Testifier

Parents United for Custodial Justice & Hear My Voice.
Representing (Optional)

2040 Wasilla Fishhook Rd, Wasilla AK 99654
Address

907-357-3618
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House HESS
committee name

committee on HB # 375 , dated April 2nd, '98.
bill/subject

What is the language to make the "order from Court", a got the administrative agency; according to your amendments? I have a question on sec # 11 + sec # 12 on page 8.

When referring to the original draft sec(b) was included; but sec(b) was not included in the 2nd & 3rd draft. So is sec (b) of Sec 11.51.120 of the original Statutes deleted or not? Or ~~is~~ does sec(b) remain as in the original statute Sec 11.51.120?

Can you clarify what you intend to do with sec(b) of this particular statute? I have researched the original and am now confused.

Personally I do not agree with "criminalizing non-payment of child support," concept. There are too many extenuating circumstances surrounding child support.

Signed: Carol Palmer
Testifier

"Parents United for Custodial Justice"
Representing (Optional)

PO Box 2402, Palmer, Alaska 99645
Address

(907) 746-2863
Phone No.

My concern is with AS 11.51.115 & AS 11.51.120.

AMENDMENT #5

OFFERED IN THE HOUSE

BY REPRESENTATIVE DYSON

TO: CSHB 375(), Draft Version "F"

1 Page 14, lines 12 - 27:

2 Delete all material and insert:

3 "(1) parents have the following rights and responsibilities relating to
4 the care and control of their child while the child is a minor:

5 (A) the responsibility to provide the child with food, clothing,
6 shelter, education, and medical care;

7 (B) the right and responsibility to protect, train, and discipline
8 the child;

9 (C) the right to determine where and with whom the child shall
10 live;

11 (D) the rights and responsibility to make decisions of legal or
12 financial significance concerning the child;

13 (E) the right to obtain representation for the child in legal
14 actions; and

15 (F) the responsibility to provide special safeguards and care,
16 including appropriate protection before as well as after birth;"

17 Renumber the following paragraphs accordingly.

18 Page 28, following line 28:

19 Insert a new bill section to read:

20 "* Sec. 42. AS 47.10.084(a) is amended to read:

21 (a) When a child is committed under AS 47.10.080(c)(1) to the department,
22 released under AS 47.10.080(c)(2) to the child's parents, guardian, or other suitable
23 person, or committed to the department or to a legally appointed guardian of the

1 person of the child under AS 47.10.080(c)(3), a relationship of legal custody exists.
2 This relationship imposes on the department and its authorized agents or the parents,
3 guardian, or other suitable person the responsibility of physical care and control of the
4 child, the determination of where and with whom the child shall live, the right and
5 duty to protect, train, and discipline the child, [AND] the duty of providing the child
6 with food, shelter, education, and medical care, and the right and responsibility to
7 obtain legal representation for, and make decisions of legal or financial
8 significance concerning, the child. These obligations are subject to any residual
9 parental rights and responsibilities and rights and responsibilities of a guardian if one
10 has been appointed. When a child is committed to the department and the department
11 places the child with the child's parent, the parent has the responsibility to provide and
12 pay for food, shelter, education, and medical care for the child. When parental rights
13 have been terminated, or there are no living parents and no guardian has been
14 appointed, the responsibilities of legal custody include those in (b) and (c) of this
15 section. The department or person having legal custody of the child may delegate any
16 of the responsibilities under this section, except authority to consent to marriage,
17 adoption, and military enlistment may not be delegated. For purposes of this chapter
18 a person in charge of a placement setting is an agent of the department."

19 Renumber the following bill sections accordingly.

20 Renumber internal references to bill sections in accordance with this amendment. Below are
21 all internal bill section references in this bill:

22 Page 51, line 12

23 Page 51, line 15

24 Page 51, line 18

25 Page 51, line 22

A M E N D M E N T #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE DYSON

TO: CSHB 375(), Draft Version "F"

1 Page 44, lines 24 - 26:

2 Delete all material and insert:

3 "Sec. 47.14.300. Multidisciplinary child protection teams. (a) The
4 department shall create multidisciplinary child protection teams to assist in the
5 evaluation and investigation of reports made under AS 47.17 and to provide
6 consultation and coordination for agencies involved in child protection cases under
7 AS 47.10.

8 (b) If a team is created under (a) of this section, the team may invite other
9 persons to serve on the team who have knowledge of and experience in child abuse
10 and neglect matters. These persons may include

11 (1) mental and physical health practitioners licensed under AS 08;

12 (2) child development specialists;

13 (3) educators;

14 (4) peace officers as defined in AS 11.81.900;

15 (5) victim counselors as defined in AS 18.66.250;

16 (6) experts in the assessment and treatment of substance abuse;

17 (7) representatives of the district attorney's office and the attorney

18 general's office;

19 (8) persons familiar with 25 U.S.C. 1901 - 1963 (Indian Child Welfare
20 Act);

21 (9) guardians ad litem; and

22 (10) staff members of a child advocacy center if a center is located in
23 the relevant area.

24 (c) A team created under (a) and (b) of this section shall review records on
25 a case referred to the team by the department. The department shall make available

1 to the team its records on the case and other records compiled for planning on the
2 case by other agencies at the request of the department. The team may make
3 recommendations to the department on appropriate planning for the case.

4 (d) Except for a public report issued by a team that does not contain
5 confidential information, records or other information collected by the team or a
6 member of the team related to duties under this section are confidential and not
7 subject to public disclosure under AS 09.25.100 and 09.25.110.

8 (e) Meetings of a team are closed to the public and are not subject to the
9 provisions of AS 44.62.310 and 44.62.312.

10 (f) The determinations, conclusions, and recommendations of a team or its
11 members are not admissible in a civil or criminal proceeding. A member may not be
12 compelled to disclose a determination, conclusion, recommendation, discussion, or
13 thought process through discovery or testimony in a civil or criminal proceeding.
14 Records and information collected by the team are not subject to discovery or
15 subpoena in connection with a civil or criminal proceeding.

16 (g) Notwithstanding (f) of this section, an employee of the department may
17 testify in a civil or criminal proceeding concerning cases reviewed by a team even
18 though the department's records were reviewed by a team and formed the basis of that
19 employee's testimony and the team's report.

20 (h) A person who serves on a multidisciplinary child protection team is not
21 liable for damage or other relief in an action brought by the reason of the performance
22 of a duty, a function, or an activity of the team.

23 (i) In this section, "team" means a multidisciplinary child protection team
24 created under (a) and (b) of this section."

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE DYSON

TO: CSHB 375(), Draft Version "F"

1 Page 11, lines 9 - 18:

2 Delete all material and insert:

3 **** Sec. 18.** AS 12.65 is amended by adding new sections to read:

4 **Sec. 12.65.115. Local child fatality review teams; protocol.** (a) Each
5 district attorney or a designee of the district attorney shall establish a group, composed
6 as described in (b) of this section, to develop a protocol that will govern investigation
7 of child fatalities in the local area by local public agencies. At a minimum, the
8 protocol must establish criteria and procedures for how

9 (1) local public agencies will determine if a child's death occurred
10 under circumstances that warrant an investigation by a local child fatality review
11 team;

12 (2) local public agencies will determine on a case-by-case basis who
13 will be on a local child fatality review team to investigate a child's death;

14 (3) the investigation of a child's death by a local child fatality review
15 team will be conducted and coordinated among the public agencies involved; and

16 (4) local child fatality review teams will communicate with the state
17 medical examiner regarding a child's death.

18 (b) The protocol development group required under (a) of this section shall
19 consist, at a minimum, of the following members appointed by the district attorney
20 or by a designee of the district attorney:

21 (1) a peace officer as defined in AS 11.81.900;

22 (2) an employee of the Department of Health and Social Services; if
23 the commissioner of health and social services nominates an employee to be appointed
24 to the protocol development team, the district attorney shall appoint the nominee;

25 (3) an employee of the district attorney's office;

1 (4) an employee of the office of the attorney general; if the attorney
2 general nominates an employee to be appointed to the protocol development team, the
3 district attorney shall appoint the nominee;

4 (5) an employee of the local school district; if the governing body of
5 the local school district nominates an employee to be appointed to the protocol
6 development team, the district attorney shall appoint the nominee;

7 (6) a licensed physician or nurse;

8 (7) a licensed mental health practitioner; and

9 (8) an employee or volunteer from a child advocacy center if the
10 locality has a child advocacy center.

11 (c) A local child fatality review team formed under a protocol developed
12 under (a) of this section has the same access to information, confidentiality
13 requirements, and immunity as provided to the state child fatality review team under
14 AS 12.65.140. A meeting of a local child fatality review team formed under a
15 protocol developed under (a) of this section is closed to the public and not subject to
16 the provisions of AS 44.62.310 and 44.62.312. A review of a child fatality by a local
17 child fatality review team formed under a protocol developed under (a) of this section
18 does not relieve the state child fatality review team under AS 12.65.120 of the
19 responsibility for reviewing the death under AS 12.65.130.

20 (d) A person appointed to the protocol development group under (a) and (b)
21 of this section or serving on a local child fatality review team under a protocol
22 developed under (a) of this section is not eligible to receive compensation from the
23 state for services on the group or team, but is entitled to per diem and travel expenses
24 as authorized under AS 39.20.180.

25 **Sec. 12.65.120. State child fatality review team.** (a) The state child fatality
26 review team is established in the Department of Health and Social Services. The team
27 is composed of

28 (1) the following persons, or that person's designee:

29 (A) the state medical examiner;

30 (B) a state prosecutor with experience in homicide
31 prosecutions, appointed by the attorney general;

32 (C) an investigator with the state troopers who has experience

1 in conducting investigations of homicide, child abuse, or child neglect,
2 appointed by the commissioner of public safety;

3 (D) a social worker with the Department of Health and Social
4 Services who has experience in conducting investigations of child abuse and
5 neglect, appointed by the commissioner of health and social services;

6 (2) the following persons, or that person's designee, appointed by the
7 commissioner of health and social services:

8 (A) a physician licensed under AS 08.64 who

9 (i) specializes in neonatology or perinatology; or

10 (ii) is certified by the American Board of Pediatrics;

11 (B) a municipal law enforcement officer with experience in
12 conducting investigations of homicide, child abuse, or child neglect;

13 (C) other persons whose experience and expertise would, as
14 determined by the commissioner of health and social services, contribute to the
15 effectiveness of the team.

16 (b) A team member is not eligible to receive compensation from the state for
17 service on the team. A member appointed under (a)(2) of this section

18 (1) is eligible for travel expenses and per diem as authorized under
19 AS 39.20.180; and

20 (2) serves at the pleasure of the commissioner of health and social
21 services.

22 (c) In addition to the persons specified in (a) of this section, the team may
23 invite a person to participate as a member of the team if the person has expertise that
24 would be helpful to the team in a review of a specific death. A person participating
25 under this subsection is eligible only for travel expenses and per diem as authorized
26 under AS 39.20.180.

27 (d) The state medical examiner serves as chair of the team.

28 **Sec. 12.65.130. State child fatality review team duties.** The state child
29 fatality review team shall

30 (1) assist the state medical examiner in determining the cause and
31 manner of the deaths in this state of children under 18 years of age;

32 (2) unless the child's death is currently being investigated by a law

1 enforcement agency, review a report of a death of a child within 48 hours of the
2 report being received by the state medical examiner if

3 (A) the death is of a child under 18 years of age;

4 (B) the deceased child, a sibling, or a member of the deceased
5 child's household

6 (i) is in the legal or physical custody of the state under
7 AS 47 or under similar custody of another state or political subdivision
8 of a state; or

9 (ii) has been the subject of a report of harm under
10 AS 47.17 or a child abuse or neglect investigation by the Department
11 of Health and Social Services or by a similar child protective service
12 in this or another state;

13 (C) a protective order under AS 18.66.100 or 18.66.110 has
14 been in effect during the previous year in which the petitioner or respondent
15 was a member of the deceased child's immediate family or household; or

16 (D) the child's death occurred in a mental health institution,
17 mental health treatment facility, foster home, or other residential or child care
18 facility, including a day care facility;

19 (3) review records concerning

20 (A) abuse or neglect of the deceased child or another child in
21 the deceased child's household;

22 (B) the criminal history or juvenile delinquency of a person
23 who may have caused the death of the child and of persons in the deceased
24 child's household; and

25 (C) a history of domestic violence involving a person who may
26 have caused the death of the child or involving persons in the deceased child's
27 household, including records in the central registry of protective orders under
28 AS 18.65.540;

29 (4) if insufficient information exists to adequately determine the cause
30 and manner of death, recommend to the state medical examiner that additional
31 information be obtained under AS 12.65.020; and

32 (5) if a local child fatality review team has not been formed under

1 AS 12.65.115 or is not available, be available to provide recommendations,
2 suggestions, and advice to state or municipal law enforcement or social service
3 agencies in the investigation of deaths of children;

4 (6) collect data and analyze and interpret information regarding deaths
5 of children in this state;

6 (7) develop state and local data bases on deaths of children in this
7 state;

8 (8) develop a model protocol for the investigation of deaths of
9 children; and

10 (9) issue an annual report to the public containing statistical data and
11 other information that does not violate federal or state law concerning confidentiality
12 of the children and their families involved in the reviews; the report must include

13 (A) identification of trends, patterns, and risk factors in deaths
14 of children;

15 (B) analyses of the incidence and causes of deaths of children
16 in this state;

17 (C) recommendations for improving the coordination of
18 government services and investigations; and

19 (D) recommendations for prevention of future deaths of
20 children.

21 **Sec. 12.65.140. Records; information; meetings; confidentiality; immunity.**

22 (a) The state child fatality review team and its members shall have access to all
23 information and records to which the state medical examiner has access under this
24 chapter. The state child fatality review team and its members shall maintain the
25 confidentiality of information and records concerning deaths under review, except
26 when disclosures may be necessary to enable the team to carry out its duties under
27 this chapter. However, the team and its members may not disclose a record that is
28 confidential under federal or state law.

29 (b) Except for public reports issued by the team, records and other
30 information collected by the team or a member of the team related to duties under this
31 chapter are confidential and are not subject to public disclosure under AS 09.25.100 -
32 09.25.220.

1 (c) Meetings of the state child fatality review team are closed to the public
2 and are not subject to the provisions of AS 44.62.310 and 44.62.312.

3 (d) The determinations, conclusions, and recommendations of the state child
4 fatality review team, or its members, are not admissible in a civil or criminal
5 proceeding. Members may not be compelled to disclose their determinations,
6 conclusions, recommendations, discussions, or thought processes through discovery
7 or testimony in a civil or criminal proceeding. Records and information collected by
8 the state child fatality review team are not subject to discovery or subpoena in
9 connection with a civil or criminal proceeding.

10 (e) Notwithstanding (d) of this section, the state medical examiner may testify
11 in a civil or criminal proceeding relating to a death, even though the death was
12 reviewed by the state child fatality review team under AS 12.65.130 and information
13 received from the review formed a basis of the state medical examiner's testimony.

14 (f) A person who is a member or an employee of, who furnishes services to,
15 or who advises the state child fatality review team is not liable for damages or other
16 relief in an action brought by reason of the performance of a duty, a function, or an
17 activity of the review team."

18 Renumber the following bill sections accordingly.

19 Page 45, line 17:

20 Delete "AS 12.65.015(e)"

21 Insert "AS 12.65.115"

22 Renumber internal references to bill sections in accordance with this amendment. Below are
23 all internal bill section references in this bill:

24 Page 51, line 12

25 Page 51, line 15

26 Page 51, line 18

27 Page 51, line 22

AMENDMENT

OFFERED IN THE HOUSE

BY Brice

TO: HB 375

1 Page 4, line 4:

2 Following "(A)":

3 Insert "Matter of J.L.F., 912 P.2d 1255 (Alaska 1996),"

4 Following "In Re S.A., 912 P.2d 1235 (Alaska 1996)"

5 Insert ",."

6 Page 8, line 6, following "not present, and"

7 Insert "knowing"

8 Page 10, lines 5 - 7:

9 Delete all material

10 Insert "(2) the person

11 (A) is required to make payments by a support order issued under
12 AS 25.27:

13 (B) with . lawful excuse fails to make payments as required by the
14 order; and

15 (C) owes over \$10,000 in support under the order."

16 Page 11, lines 29 - 30:

17 Delete all material

18 Insert "(2) the next working day following [SEVEN DAYS OF] conviction for a sex
19 offense if the sex offender is not incarcerated at the time of conviction [SENTENCED TO
20 A TERM OF INCARCERATION]; or

21 Page 23, line 10, following "substances;":

1 Insert "if a court has found that a child is a child in need of aid under this paragraph,"

2 Page 23, line 11, following "custodian":

3 Delete ","

4 Page 23, line 11, following "rehabilitation":

5 Delete "or"

6 Page 23, line 12:

7 Delete "a period of abstinence."

8 Page 23, line 13:

9 Delete "paragraph;"

10 Insert "paragraph, but only if the resumption of use occurs within one year after
11 rehabilitation is terminated;"

12 Page 23, line 20, following "Abandonment.":

13 Insert "(a)"

14 Page 24, following line 15:

15 Insert "(b) In this section, "justifiable cause" includes conduct or an omission by a
16 domestic violence victim to protect that victim or a child in that victim's care from further
17 acts of domestic violence."

18 Page 29, lines 13 - 15:

19 Delete "AS 47.10.142(c)] or is committed to the custody of the department under (c)(1)
20 or (3) of this section or AS 47.14.100(c)"

21 Insert "AS 47.10.142(c) OR COMMITTED TO THE CUSTODY OF THE
22 DEPARTMENT UNDER (c)(1) OR (3) OF THIS SECTION OR AS 47.14.100(c)]"

1 Page 43, following line 24:

2 Insert a new bill section to read:

3 **** Sec. 56.** AS 47.17.020 is amended by adding new subsections to read:

4 (h) This section does not require a person required to report child abuse or
5 neglect under (a)(7) of this section to report emotional harm to a child as a result of
6 exposure to domestic violence as described in AS 47.10.011(a)(8) so long as the
7 person has reasonable cause to believe that the child is in safe and appropriate care and
8 not presently in danger of emotional harm as a result of exposure to domestic violence.

9 (i) This section does not require a person required to report child abuse or
10 neglect under (a)(8) of this section to report the resumption of use of drugs or
11 intoxicants or of a controlled substance as described in AS 47.10.011(a)(10) so long
12 as the person does not have reasonable cause to suspect that a child has suffered harm
13 as a result of the resumption."

14 Renumber the following bill sections accordingly.

15 Page 44, following line 8:

16 Insert a new bill section to read:

17 **** Sec. 59.** AS 47.17.035(b) is amended to read:

18 (b) If the department determines in an investigation of abuse or neglect of a
19 child that

20 (1) the child is in danger because of domestic violence or that the child
21 needs protection as a result of the presence of domestic violence in the family, the
22 department shall take appropriate steps for the protection of the child; in this
23 paragraph, "appropriate steps" include

24 (A) reasonable efforts to protect the child and prevent the
25 removal of the child from the parent or guardian who is not a domestic
26 violence offender;

27 (B) reasonable efforts to remove the alleged domestic
28 violence offender from the child's residence if it is determined that the

1 child or another family or household member is in danger of domestic
2 violence; and

3 (C) services to help protect the child from being placed or
4 having unsupervised visitation with the domestic violence offender until the
5 department determines that the offender has met conditions considered
6 necessary by the department to protect the safety of the domestic violence
7 victim and household members;

8 (2) a person is the victim of domestic violence, the department shall
9 provide the victim with a written notice of the rights of and services available to
10 victims of domestic violence that is substantially similar to the notice provided to
11 victims of domestic violence under AS 18.65.520."

12 Renumber the following bill sections accordingly.

13 Page 44, line 31. following "each person":

14 Insert "older than 16 years of age"

15 Page 48, line 2:

16 Delete "sec. 64"

17 Insert "sec. 66"

18 Page 48, line 9:

19 Delete "sec. 66"

20 Insert "sec. 68"

21 Page 48, line 15:

22 Delete "sec. 68"

23 Insert "sec. 70"

24 Page 48, line 20:

1 Delete "sec. 70"

2 Insert "sec. 72"

3 Page 48, line 25:

4 Delete "sec. 72"

5 Insert "sec. 74"

6 Page 48, line 31:

7 Delete "sec. 74"

8 Insert "sec. 76"

9 Page 49, line 9:

10 Delete "sec. 76"

11 Insert "sec. 78"

AMENDMENT

#6

Offered in the House HESS

By: Representative Brice

To: CS HB 375

Page 15, line 10-11

(B) when a child is removed from the home, the department should make reasonable efforts to provide weekly supervised or unsupervised visitation between the child and the child's parent or guardian and extended family members unless a mental health practitioner experienced with treating children has determined that the visitation would be harmful to the child;

Page 32, line 19, following "Harm"
insert or sexual abuse

AMENDMENT

#3 *awof*

OFFERED IN THE HOUSE

BY Brice

TO: CSHB 375 () / 0-GH2009/F

1 Page 11, line 10: -

2 Delete all material and insert:

SHALL FACILITATE THE FORMATION OF

3 "(e) The state medical examiner ~~may appoint~~ *SHALL FACILITATE THE FORMATION OF* local, regional, ~~and~~ *OF* district child
4 fatality review teams to assist local, regional, and district medical examiners in
5 determining the cause and manner of deaths of children under 18 years of age. If a
6 team is ~~appointed~~ *FORMED* under this section, the team shall have the same access to
7 information, confidentiality requirements, and immunity as provided to the state child
8 fatality review team under AS 12.65.140. A meeting of a team appointed under this
9 subsection is closed to the public and not subject to the provisions of AS 44.62.310 -
10 44.62.312. A review by a local, regional, or district child fatality review team does
11 not relieve the state child fatality review team under AS 12.65.120 of the responsibility
12 for reviewing these deaths under AS 12.65.130. A person ~~appointed to~~ *OF* a local,
13 regional, or district child fatality review team is not eligible to receive compensation
14 from the state for service on the team, but the person is eligible for travel and per
15 diem from the Department of Health and Social Services under AS 39.20.180. A
16 person appointed to a team under this subsection serves at the pleasure of the state
17 medical examiner."

18 Page 11, lines 12 - 18:

19 Delete all material and insert:

20 "Sec. 12.65.120. State child fatality review team. (a) The state child fatality
21 review team is established in the Department of Health and Social Services to assist
22 the state medical examiner. The team is composed of

23 (1) the following persons, or that person's designee:

24 (A) the state medical examiner;

#3

A M E N D M E N T

OFFERED IN THE HOUSE

BY Brice

TO: CSHB 375 () / 0-GH2009/F

1 Page 11, line 10:

2 Delete all material and insert:

3 "(e) The state medical examiner may appoint local, regional, and district child
4 fatality review teams to assist local, regional, and district medical examiners in
5 determining the cause and manner of deaths of children under 18 years of age. If a
6 team is appointed under this section, the team shall have the same access to
7 information, confidentiality requirements, and immunity as provided to the state child
8 fatality review team under AS 12.65.140. A meeting of a team appointed under this
9 subsection is closed to the public and not subject to the provisions of AS 44.62.310 -
10 44.62.312. A review by a local, regional, or district child fatality review team does
11 not relieve the state child fatality review team under AS 12.65.120 of the responsibility
12 for reviewing these deaths under AS 12.65.130. A person appointed to a local,
13 regional, or district child fatality review team is not eligible to receive compensation
14 from the state for service on the team, but the person is eligible for travel and per
15 diem from the Department of Health and Social Services under AS 39.20.180. A
16 person appointed to a team under this subsection serves at the pleasure of the state
17 medical examiner."

18 Page 11, lines 12 - 18:

19 Delete all material and insert:

20 "Sec. 12.65.120. State child fatality review team. (a) The state child fatality
21 review team is established in the Department of Health and Social Services to assist
22 the state medical examiner. The team is composed of

23 (1) the following persons, or that person's designee:

24 (A) the state medical examiner;

1 (B) a state prosecutor with experience in homicide prosecutions,
2 appointed by the attorney general;

3 (C) an investigator with the state troopers who has experience
4 in conducting investigations of homicide, child abuse, or child neglect,
5 appointed by the commissioner of public safety;

6 (D) a social worker with the Department of Health and Social
7 Services who has experience in conducting investigations of child abuse and
8 neglect, appointed by the commissioner of health and social services;

9 (2) the following persons, or that person's designee, appointed by the
10 commissioner of health and social services:

11 (A) a physician licensed under AS 08.64 who

12 (i) specializes in neonatology or perinatology; or

13 (ii) is certified by the American Board of Pediatrics;

14 (B) a municipal law enforcement officer with experience in
15 conducting investigations of homicide, child abuse, or child neglect;

16 (C) other persons whose experience and expertise would, as
17 determined by the commissioner of health and social services, contribute to the
18 effectiveness of the team.

19 (b) A team member is not eligible to receive compensation from the state for
20 service on the team. A member appointed under (a)(2) of this section

21 (1) is eligible for travel and per diem from the Department of Health
22 and Social Services under AS 39.20.180; and

23 (2) serves at the pleasure of the commissioner of health and social
24 services.

25 (c) In addition to the persons specified in (a) and (b) of this section, the team
26 may invite a person to participate as a member of the team if the person has expertise
27 that would be helpful to the team in a review of a specific death. A person
28 participating under this subsection is eligible only for travel and per diem from the
29 Department of Health and Social Services under AS 39.20.180.

30 (d) The state medical examiner serves as chair of the team.

1 **Sec. 12.65.130. State child fatality review team duties.** (a) The state child
2 fatality review team shall

3 (1) assist the state medical examiner in determining the cause and
4 manner of the deaths in this state of children under the age of 18 years;

5 (2) unless the child's death is currently being investigated by law
6 enforcement, review any report of a death of a child within 48 hours of the report
7 being received by the medical examiner if

8 (A) the death is of a child under the age of 10 years;

9 (B) the deceased child, a sibling, or a member of the deceased
10 child's household

11 (i) is in the legal or physical custody of the state under
12 AS 47, or under similar custody of another state or political subdivision
13 of a state; or

14 (ii) has been the subject of a report of harm under
15 AS 47.17, or a child abuse or neglect investigation by the Department
16 of Health and Social Services or by a similar child protective service in
17 this or another state;

18 (C) a protective order under AS 18.66.100 or 18.66.110 has
19 been in effect during the previous year in which the petitioner or respondent
20 was a member of the deceased child's immediate family or household; or

21 (D) the child's death occurred in a mental health institution,
22 mental health treatment facility, foster home, or other residential or child care
23 facility, including a day care facility;

24 (3) review records concerning

25 (A) abuse or neglect of the deceased child or another child in
26 the deceased child's household;

27 (B) the criminal history or juvenile delinquency of a person who
28 may have caused the death of the child and of persons in the deceased child's
29 household; and

30 (C) a history of domestic violence involving a person who may

1 have caused the death of the child or involving persons in the deceased child's
2 household, including records in the central registry of protective orders under
3 AS 18.65.540;

4 (4) if insufficient information exists to adequately determine the cause
5 and manner of death, recommend to the state medical examiner that additional
6 information be obtained under AS 12.65.020; and

7 (5) if a local, regional, or district child fatality review team has not
8 been appointed under AS 12.65.015 or is not available, be available to provide
9 recommendations, suggestions, and advice to state or municipal law enforcement or
10 social service agencies in the investigation of deaths of children.

11 (b) The state child fatality review team may

12 (1) collect data and analyze and interpret information regarding deaths
13 of children in this state;

14 (2) develop state and local data bases on deaths of children in this state;

15 (3) develop a model protocol for the investigation of deaths of children;

16 and

17 (4) periodically issue reports to the public containing statistical data and
18 other information that does not violate federal or state law concerning confidentiality
19 of the children and their families involved in the reviews; these reports may include

20 (A) identification of trends, patterns, and risk factors in deaths
21 of the children;

22 (B) analysis on the incidence and causes of deaths of children
23 in this state;

24 (C) recommendations for improving the coordination of
25 government services and investigations; and

26 (D) recommendations for prevention of future deaths of
27 children.

28 **Sec. 12.65.140. Records; information; meetings; confidentiality; immunity.**

29 (a) The state child fatality review team and its members shall have access to all
30 information and records to which the state medical examiner has access under this

1 chapter. The state child fatality review team and its members shall maintain the
2 confidentiality of information and records concerning deaths under review, except
3 when disclosures may be necessary to enable the team to carry out its duties under this
4 chapter. However, the team and its members may not disclose a record that is
5 confidential under federal or state law.

6 (b) Except for public reports issued by the team, records and other information
7 collected by the team or a member of the team related to duties under this chapter are
8 confidential and not subject to public disclosure under AS 09.25.100 - 09.25.220.

9 (c) Meetings of the state child fatality review team are closed to the public and
10 are not subject to the provisions of AS 44.62.310 - 44.62.312.

11 (d) The determinations, conclusions, and recommendations of the state child
12 fatality review team, or its members, are not admissible in any civil or criminal
13 proceeding. Members may not be compelled to disclose their determinations,
14 conclusions, recommendations, discussions, or thought processes through discovery or
15 testimony in any civil or criminal proceeding. Records and information collected by
16 the state child fatality review team are not subject to discovery or subpoena in
17 connection with a civil or criminal proceeding.

18 (e) Notwithstanding (d) of this section, the state medical examiner may testify
19 in a civil or criminal proceeding even though the death was reviewed by the state child
20 fatality review team under AS 12.65.130 and information received from the review
21 formed a basis of the state medical examiner's testimony.

22 (f) A person who is a member or an employee of, or who furnishes services
23 to or advises the state child fatality review team, is not liable for damages or other
24 relief in an action brought by reason of the performance of a duty, a function, or an
25 activity of the review team."

AMENDMENT # 4

OFFERED IN THE HOUSE

BY REPRESENTATIVE DYSON

TO: CSHB 375 () / 0-GH2009/F

1 Page 29, line 29:

2 Following "abandonment,"

3 Insert "sexual abuse,"

4 Following "torture,"

5 Insert "chronic"

6 Page 50, line 3, following "foster home.":

7 Insert "The department may extend a provisional foster home license issued under this
8 subsection for an additional period of up to 90 days in order to obtain the information from
9 the national criminal background check required under AS 47.35.017(b)(6)."

7
AMENDMENTS

1
2
3 OFFERED IN THE HOUSE

BY: Dyson

4
5 TO: HB 375

6
7 Page 13, following line 25:

8 Insert a new bill section to read:

9 *Sec. __. AS 25.20.061 is amended to read:

10 PRESUMPTIONS [VISITATION] IN PROCEEDINGS INVOLVING
11 DOMESTIC VIOLENCE. (a) If the court finds in a proceeding involving child custody
12 that domestic violence has occurred, rebuttable presumptions arise that it is

13 (1) detrimental to the child and not in the best interest of the child to be
14 placed in sole custody, joint legal custody, or joint physical custody with the
15 perpetrator of the domestic violence; and

16 (2) in the best interest of the child to reside with the parent who is not a
17 perpetrator of domestic violence in a location of that parent's choice, inside or
18 outside the state.

19 (b) In addition to the rebuttable presumptions that a court must consider under
20 (a) of this section, if the court finds that domestic violence has occurred, the court
21 shall consider the following factors in making an award of child custody:

22 (1) the safety and well-being of the child or of the parent who is the
23 victim of domestic violence;

24 (2) the perpetrator's history of causing physical harm, bodily injury,
25 assault, or causing reasonable fear of physical harm, bodily injury, or assault,
26 to another person.

27 (c) If a parent is absent or relocates because of an act of domestic violence by
28 the other parent, the court may not consider the absence or relocation as a factor
29 against that parent in determining custody.

30 (d) The court may award [IF] visitation [IS AWARDED] to a parent who has
31 committed a crime involving domestic violence, against the other parent or a child of the
32 two parents, only if the court finds the safety of the child and the other parent can be
33 protected. [WITHIN THE FIVE YEARS PRECEDING THE AWARD OF VISITATION]

1 **(e) If visitation is awarded under (d) of this section,** the court may set conditions
2 for the visitation, including

3 (1) the transfer of the child for visitation must occur in a protected setting;

4 (2) visitation shall be supervised by another person or agency and under
5 specified conditions as ordered by the court;

6 (3) the perpetrator shall attend and complete, to the satisfaction of the court,
7 a program for the rehabilitation of perpetrators of domestic violence that meets the
8 standards set by the Department of Corrections under AS 44.28.020 (b), or other
9 counseling; the perpetrator shall be required to pay the costs of the program or
10 other counseling;

11 (4) the perpetrator shall abstain from possession or consumption of alcohol
12 or controlled substances during the visitation and for 24 hours before visitation;

13 (5) the perpetrator shall pay costs of supervised visitation as set by the
14 court;

15 (6) the prohibition of overnight visitation;

16 (7) the perpetrator shall post a bond to the court for the return and safety of
17 the child; and

18 (8) any other condition necessary for the safety of the child, the other
19 parent, or other household member.
20

21 Page 13, Following line 25

22 Insert a new bill section to read:

23 * Sec. ____ . AS 25.20.070 is amended to read:

24 **TEMPORARY CUSTODY OF THE CHILD.** Unless it is shown to be detrimental to the
25 welfare of the child or **the court determines that domestic violence has occurred,** the
26 child shall have, to the greatest degree practical, equal access to both parents during the
27 time that the court considers an award of custody under AS 25.20.060 - 25.20.130.

28 Page 13, Following line 25

29 Insert a new bill section to read: .

30 **FACTORS FOR CONSIDERATION IN AWARDING SHARED CHILD**

31 **CUSTODY.** In determining whether to award shared custody of a child the court shall
32 consider

- 1 (1) presumptions under AS 25.20.061:
- 2 (2) the child's preference if the child is of sufficient age and capacity to
- 3 form a preference;
- 4 (3) [(2)] the needs of the child;
- 5 (4) [(3)] the stability of the home environment likely to be offered by each
- 6 parent;
- 7 (5) [(4)] the education of the child;
- 8 (6) [(5)] the advantages of keeping the child in the community where the
- 9 child presently resides;
- 10 (7) [(6)] the optimal time for the child to spend with each parent considering
- 11 (A) the actual time spent with each parent;
- 12 (B) the proximity of each parent to the other and to the school in
- 13 which the child is enrolled;
- 14 (C) the feasibility of travel between the parents;
- 15 (D) special needs unique to the child that may be better met by one
- 16 parent than the other;
- 17 (E) which parent is more likely to encourage frequent and continuing
- 18 contact with the other parent;
- 19 (8) [(7)] any findings and recommendations of a neutral mediator;
- 20 (9) [(8)] any evidence of domestic violence, child abuse, or child neglect in
- 21 the proposed custodial household or a history of violence between the parents;
- 22 (10) [(9)] evidence that substance abuse by either parent or other members
- 23 of the household directly affects the emotional or physical well-being of the child;
- 24 (11) [(10)] other factors the court considers pertinent.

25
26 Page 13, Following line 25

27 Insert a new bill section to read:

28 *Sec. __AS 25.24.150 (c) is amended to read:

29 (c) The court shall determine custody in accordance with the best interests of the
30 child under AS 25.20.060 - 25.20.130. In determining the best interests of the child the
31 court shall consider

- 1 (1) presumptions under AS 25.20.061:
2 (2) the physical, emotional, mental, religious, and social needs of the child;
3 (3) [(2)] the capability and desire of each parent to meet these needs;
4 (4) [(3)] the child's preference if the child is of sufficient age and capacity
5 to form a preference;
6 (5) [(4)] the love and affection existing between the child and each parent;
7 (6) [(5)] the length of time the child has lived in a stable, satisfactory
8 environment and the desirability of maintaining continuity;
9 (7) [(6)] the desire and ability of each parent to allow an open and loving ,
10 frequent relationship between the child and the other parent;
11 (8) [(7)] any evidence of domestic violence, child abuse, or child neglect in
12 the proposed custodial household or a history of violence between the parents;
13 (9) [(8)] evidence that substance abuse by either parent or other member of
14 the household directly affects the emotional or physical well-being of the child;
15 (10) [(9)] other factors that the court considers pertinent.

AMENDMENT 10

DELETE LINES 8-26 (INCLUSIVE)

ON PAGE 8

+ appropriate title change

HB

383

Alaska State Legislature

Interim:

145 Main St. Lp., 223
Kenai, Alaska 99611
907/283-7095
907/283-3075 fx
907/262-7574 hm

Session:

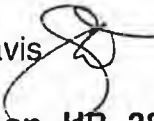
State Capitol
Juneau, AK 99801
907/465-2693
fx 907/465-3835
800/463-2693

Representative Gary Davis

MEMORANDUM

DATE: March 5, 1998

TO: Representative Joe Green, Chair
House Judiciary Committee

FROM: Representative Gary Davis 

RE: Request for Hearing on HB 383 "An Act relating expected deaths that occur at home or in a health care facility"

This is to request that a hearing be scheduled on House Bill 383 "An Act relating expected deaths that occur at home or in a health care facility." Attached are the following items for inclusion in the committee files.

- Sponsor Statement;
- Sectional Analysis;
- current Alaska statutes that will be modified by HB 383; and
- background information on expected home death procedures in Anchorage and Juneau, and correspondence from personnel with the Hospice of the Central Peninsula.

Thank you for considering this request. Please contact Deb Davidson of my staff if you have any questions.

GLD/dld

Attachments

*Representing House District 8
Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna*

Representative_Gary_Davis@legis.state.ak.us

Alaska State Legislature

Interim:

145 Main Street Loop #223

Kenai, Alaska 99611

(907) 283-7095

(907) 283-3075 (fax)

(907) 262-7574 (h)



Session:

State Capitol

Juneau, Alaska 99801

(907) 465-2693

(fax) (907) 465-3835

Representative Gary L. Davis

SPONSOR STATEMENT

House Bill 383

"An Act relating to expected deaths that occur at home or in a health care facility"

Expected home death describes a circumstance whereby a person who has a limited life expectancy and wants to die at home completes an "Expected Home Death Case Report" signed by the attending physician and files a copy of this form with the State Medical Examiner. Alaska statutes list the criteria necessary for a circumstance to be considered an expected home death and specify conditions under which a registered nurse may make a determination and pronouncement of death in these circumstances.

House Bill 383 amends statutes pertaining to expected home deaths by removing perceived contradictions in law regarding whose responsibility it is to sign the death certificate in these cases. It also adds a new section that states it is not necessary to notify a peace officer in the event of a properly documented expected home death.

Current law requires that both law enforcement officials and the state medical examiner be notified in all instances of death regardless of cause. The law is somewhat unclear as how and when peace officers are to be involved in an expected home death situation; however it is explicit in its requirement that the person's body may not be moved without the permission of the state medical examiner. This lack of clarity has caused some confusion and discrepancies in the way expected home deaths are handled throughout the state.

Experiencing the death of a family member is a difficult and emotionally charged event, and requiring additional personnel to the situation can cause unnecessary stress. House Bill 383 removes the requirement that peace officers be notified in the event of an expected home death provided that the procedure for filing an expected home death case report has been followed, and the person authorized to pronounce death believes the death occurred as anticipated.

Death from a terminal illness or natural causes is a normal life event and should be treated as such. House Bill 383 amends current statutes to allow this to happen without undue intrusion, while still providing that the interests of the state and the deceased are protected.

HB383/SS/2/12/98

Representing House District 8

Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

Alaska State Legislature

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Representative Gary L. Davis

SECTIONAL ANALYSIS

House Bill 383

"An Act relating to expected deaths that occur at home or in a health care facility"

- Section 1 Amends AS 08.68.395 "Determination of death by registered nurse," subsection (a) to specify that the required documentation for anticipated death include the physician's agreement to sign the death certificate if the death occurs as anticipated.
- Section 2 Amends AS 08.68.395(b) to specify that the registered nurse who pronounced death in an anticipated death circumstance shall provide to the person signing the death certificate the required information.
- Section 3 Adds a new section to AS 12.65, "Death Investigations and Medical Examiners," stating that a peace officer does not have to be notified in cases of expected home deaths where a person authorized to pronounce death is in attendance or has knowledge of the death.

SB383/SA/2/11/98

Representing House District 8
Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

Chapter 65. Death Investigations and Medical Examiners.

Section

- 05. Duty to notify state medical examiner
- 15. State medical examiner
- 20. Medical death investigations
- 25. Post mortem examinations

Section

- 100. Unclaimed bodies
- 105. Release of property to temporary custodian
- 110. Inventory and disposition of property

Cross references. — For inquests, see AS 09.55.062 — 09.55.069.

Collateral references. — 18 Am. Jur. 2d, Coroners or Medical Examiners, § 1 et seq.

18 C.J.S., Coroners, § 1 et seq.; 80 C.J.S., Sheriffs and Constables, § 38.

Liability for wrongful autopsy, 18 ALR4th 858.

Sec. 12.65.005. Duty to notify state medical examiner. (a) Unless the person has reasonable grounds to believe that notice has already been given, a person who attends a death or has knowledge of a death, in addition to notifying a peace officer, shall immediately notify the state medical examiner when the death appears to have

(1) been caused by unknown or criminal means, during the commission of a crime, or by suicide, accident, or poisoning;

(2) occurred under suspicious or unusual circumstances or occurred suddenly when the decedent was in apparent good health;

(3) been unattended by a practicing physician or occurred less than 24 hours after the deceased was admitted to a medical facility;

(4) been associated with a diagnostic or therapeutic procedure;

(5) resulted from a disease that constitutes a threat to public health;

(6) been caused by a disease, injury, or toxic agent resulting from employment;

(7) occurred in a jail or corrections facility owned or operated by the state or a political subdivision of the state or in a facility for the placement of persons in the custody or under the supervision of the state;

(8) occurred in a foster home;

(9) occurred in a mental institution or mental health treatment facility; or

(10) occurred while the deceased was in the custody of, or was being taken into the custody of, the state or a political subdivision of the state or a public officer or agent of the state or a political subdivision of the state.

(b) A person who attends a death or has knowledge of a death occurring in circumstances other than those enumerated in (a) of this section may notify the state medical examiners of the death if, in the person's opinion, a death investigation under AS 12.65.020 — 12.65.025 may be appropriate.

§ 12.65.010

CODE OF CRIMINAL PROCEDURE

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(c) The body of a person whose death has been or should be reported to the state medical examiner under this section may not be moved or otherwise disturbed without the permission of the state medical examiner. (§ 2 ch 103 SLA 1996)

Effective dates. — Section 2, ch. 103, SLA 1996, which enacted this section, took effect on September 23, 1996.

Article 5. Miscellaneous Provisions.

Section

395. Determination of death by registered nurse

Sec. 08.68.395. Determination of death by registered nurse. (a) A registered nurse licensed under this chapter may make a determination and pronouncement of death of a person under the following circumstances:

(1) an attending physician has documented in the person's medical or clinical record that the person's death is anticipated due to illness, infirmity, or disease; this prognosis is valid for purposes of this section for no more than 120 days from the date of the documentation;

~~§ 08.68.400~~

~~BUSINESS AND PROFESSIONS~~

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(2) at the time of documentation under (1) of this subsection, the physician authorized in writing a specific registered nurse or nurses to make a determination and pronouncement of the person's death; however, if the person is in a health care facility and the health care facility has complied with (d) of this section, the physician may authorize all nurses employed by the facility to make a determination and pronouncement of the person's death.

(b) A registered nurse who has determined and pronounced death under this section shall document the clinical criteria for the determination and pronouncement in the person's medical or clinical record and notify the physician who determined that the prognosis for the patient was for an anticipated death. The registered nurse shall sign the death certificate, which must include the

- (1) name of the deceased;
- (2) presence of a contagious disease, if known; and
- (3) date and time of death.

(c) Except as otherwise provided under AS 18.50.230, a physician licensed under AS 08.64 shall certify a death determined under (b) of this section within 24 hours after the pronouncement by the registered nurse.

(d) In a health care facility in which a physician chooses to proceed under (a) of this section, written policies and procedures shall be adopted that provide for the determination and pronouncement of death by a registered nurse under this section. A registered nurse employed by a health care facility may not make a determination or pronouncement of death under this section unless the facility has written policies and procedures implementing and ensuring compliance with this section.

(e) Notwithstanding AS 08.68.400(a)(1), this section applies to a qualified nurse described in AS 08.68.400(a)(1) who is employed by a federal health care facility.

(f) The Department of Health and Social Services may adopt regulations to implement this section.

(g) In this section,

(1) "determination of death" means observation and assessment that a person is dead, as defined in AS 09.68.120;

(2) "health care facility" means a private, municipal, state, or federal hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney disease treatment center (excluding freestanding hemodialysis units), intermediate care facility, or Alaska Pioneers' Home administered by the Department of Administration under AS 47.55. (§ 1 ch 6 SLA 1991)

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF HEALTH & SOCIAL SERVICES
Division of Public Health
OFFICE OF THE MEDICAL EXAMINER

5700 East Tudor Road
Anchorage, Alaska 99507-1264
Phone: 269-5090/Fax: 269-5069

MEMORANDUM

TO: Persons Registering Expected Home Deaths

FROM: Michael T. Propst, M.D.
Chief Medical Examiner

SUBJECT: Procedure Change for Registration of Expected Home Deaths

Effective immediately the agency registering an expected home death will send (fax) the notification to two places:

1. Office of the State Medical Examiner - fax 269-5069
2. Anchorage Fire Dispatch - fax 344-6180

The Fire Department requires copies of the form authorizing the pronouncement of death by an R.N., when that is elected by the treating physician. It is not necessary to supply that form to the Medical Examiner.

The Medical Examiner's Office is not able to forward information or to fax back confirmation of registration.

EXPECTED HOME DEATH PROCEDURE
FOR ANCHORAGE

The Anchorage Fire Department EMS Division (paramedics), the State Medical Examiner's Office and other concerned persons have developed this procedure for handling Expected Home Deaths.

To Initiate a Listing

If you are making the arrangements for an Expected Home Death, we ask you to follow this standard procedure:

1. The treating physician completes and signs an Expected Home Death registration form and return it by fax to the State Medical Examiner's Office at 269-5069 and to Anchorage Fire Dispatch at 344-6180. (You may contact the Medical Examiner's Office at 269-5090 to obtain a blank copy of this form).
 - a. The form will contain the following information on the patient
 - Name
 - Date of birth
 - Social security number
 - Residential address of patient (and directions if necessary)
 - Phone number at residence
 - Next-of-kin/contact and phone number
 - Nature of the illness
 - Treating physician's signature, license number and phone number
 - Name of home nursing service, if any
 - Whether the patient has a pacemaker
 - b. The treating physician must confirm the nature of the illness and that he/she is willing to sign the death certificate if this patient dies at home.
2. After the Medical Examiner's Office has reviewed the Expected Home Death form, it will be kept on file.

To Report a Death at the Home of a Listed Person

1. If this is an Expected Home Death in which the patient's treating physician has responded to the home to pronounce the death, there is no requirement for paramedics or police officers to be involved. Upon arriving in the home and pronouncing death, the physician shall contact the Medical Examiner by calling the Anchorage Police Department Dispatch at 786-8900. The Medical Examiner will give permission to remove the body.
2. If this is an Expected Home Death in which a specific Registered Nurse has current written authority to pronounce death, the Home Nursing Service Agency will provide a written procedure for the family to follow upon the death of the patient.
3. In all other cases, when an Expected Home Death occurs, the procedure set forth on the next page should be followed by persons in the home:

- a. Call Anchorage Fire Department Paramedic Dispatch at 522-1122. This is a 24 hour number.
- b. The caller must identify who they are and state "this is an Expected Home Death".
- c. The caller must give the nature of the call; that is, the patient is dead.
- d. The caller must give Dispatch the patient's full name.
- e. The caller must give Dispatch the residence phone number, street address and directions, if needed

If the above procedure is followed, a paramedic and police officer will be dispatched without lights and sirens to the residence.

The paramedic will determine that the patient has died. The paramedic will then provide his/her name to the person in charge at the residence or to the police officer.

The police officer will conduct an initial investigation. Usually, this will consist of a visual inspection of the deceased and the surrounding area, a determination of the name of those persons present in the home at the time of death, discussion with the person in charge at the home as to times and events leading up to the death, and a consultation with the paramedic.

The police officer will call the Medical Examiner's Office for permission to remove the body. The funeral home of the family's choice may then be called to request their personnel remove the body.

If this is an Expected Home Death in which a Registered Nurse has current authority to pronounce death, the nurse will contact the Anchorage Fire Department Paramedic Dispatch at 522-1122. Dispatch will notify the appropriate police agency. The police officer will follow the same investigation procedure as above.

It is important that families be aware of the following information:

1. If the 911 emergency number is called, there will be a full coded response with lights and sirens by the paramedics and the police.
2. If the patient still has vital signs when the paramedics arrive at the residence and the family requests transport without resuscitation, the medics will comply with the family's request. If the family makes specific treatment requests, the medics will contact an appropriate physician for direction.
3. In all cases, the police officer has the right to institute a full investigation. This should not be construed to mean anyone is suspected of wrongdoing.
4. The Expected Home Death list is not a "no code" or "do not resuscitate" list. It only relates to the type and level of paramedic and police response after an expected home death has occurred.

REGISTERED NURSE DIRECTIVE
PRONOUNCING DEATH FOR EXPECTED HOME DEATHS

1. Standard procedure for setting up an Expected Home Death through the Medical Examiner's Office will be followed.
2. If a Registered Nurse will be authorized to pronounce death, the Home Nursing Service (this includes Hospice) must provide Anchorage Fire Dispatch with written authorization from the treating physician.
 - a. Per A.S. 08.68.395, this written authorization must designate a specific registered nurse or nurses.
 - b. The authorization is only valid for 120 days.
3. The Home Nursing Service will provide the family with directions to be followed upon the death of the patient. These directions must be very specific as to what hours and days the R.N. will be available to pronounce death, and what the family is to do if death occurs during the time frames they are not available.
4. The proper authorized Registered Nurse will determine the patient has died. The nurse will then call the proper law enforcement agency for law enforcement response. The number to call at Anchorage Police Department is 786-8900. The number to call the Alaska State Troopers is 428-7200. If the nurse is unsure of jurisdiction, the call should be placed to the Anchorage Police Department. They will direct the call to the proper agency.

The law enforcement response in these cases will be the same. The law enforcement officer will confirm with the Medical Examiner's Office that the registered nurse has current authority to pronounce death.

It is the responsibility of the Home Nursing Service to:

1. Provide the Medical Examiner's Office with written authority from the doctor for the registered nurses to pronounce death. The Medical Examiner's Office will accept a facsimile of that authorization.
2. Track the 120 day limit and insure a current authorization is always on file with the Medical Examiner's Office.
3. Advise the Medical Examiner's Office if they terminate services to a patient, and therefore, would not be authorized to pronounce death.

EXPECTED HOME DEATH REGISTRATION
FOR THE ANCHORAGE AREA

To add a patient to the Medical Examiner's Expected Home Death List for 12 months the attending physician must sign the completed form and fax it to 269-5069 and to Anchorage Fire Dispatch at 344-6180

PATIENT NAME _____ TELE# _____

DATE OF BIRTH _____ SS# _____

PATIENT PHYSICAL LOCATION (no P.O. Box) _____

FAMILY/CONTACT (name/relationship) _____ TELE# _____

FACILITY NAME _____ TELE# _____

Will RN be authorized to pronounce death? _____

If yes, then a list of those RN's authorized to pronounce must be sent to A.F.D.

RN Expiration if authorized to pronounce _____ (120 from the physician's date of signature)

ILLNESS _____ PACEMAKER? _____

PHYSICIAN _____ TELE# _____

As the attending physician for this patient, I confirm the illness listed above, that death is anticipated, and I agree to sign the death certificate if death occurs out of my presence, and as a consequence of the above illness.

PHYSICIAN SIGNATURE _____ DATE _____

License # _____

.....

Please fax the following information after pronouncement has been made.

DATE OF DEATH _____ TIME OF DEATH _____

PARAMEDIC/PRONOUNCING NURSE _____

OFFICER _____ AGENCY CASE # _____

FUNERAL HOME _____ M.E. NOTIFIED _____

**HOSPICE AND HOME CARE OF JUNEAU
PROCEDURE FOR EXPECTED DEATH REPORTING**

DRAFTED BY: Jan Young, RN

DATE REVIEWED/REVISED: 11/04/98

1. UPON ADMITTING A CLIENT TO HOSPICE, THE NURSE WILL COMPLETE A EXPECTED HOME DEATH CASE REPORT FORM AND FAX TO THE OFFICE OF THE STATE MEDICAL EXAMINER (OSME) AT: 1-907-269-5089.
2. AT THE TIME OF DEATH, THE NURSE CALLS THE DEATH REPORTING NUMBER TO REPORT TIME OF DEATH AND OBTAIN PERMISSION TO RELEASE THE BODY TO THE MORTICIAN. REMEMBER, THE BODY CANNOT BE REMOVED FROM THE HOME UNTIL PERMISSION HAS BEEN GRANTED BY THE OSME. IF YOU HAVE ANY SUSPICION THAT THE DEATH DID NOT OCCUR IN THE EXPECTED MANNER, REPORT THAT ALSO. THE APPROPRIATE POLICE AGENCY WILL NEED TO BE CALLED UPON TO INVESTIGATE.

OSME DEATH REPORTING NUMBER:

1-888-332-3273 (1-888-DECREASE) (TOLL FREE NUMBER)

(back up no. if 888 doesn't work: 1-907/227-2882)

THERE IS ALSO AN ANCHORAGE OFFICE NUMBER AVAILABLE DURING NORMAL WORKING HOURS: 1-907-269-5090 (THIS IS A L.D. CALL)

3. IF THE NURSE CANNOT REACH THE OSME AT TIME OF DEATH, SHE MAY CONTACT THE JUNEAU POLICE DEPT. (586-2780). AN OFFICER WILL COME INSPECT THE SCENE AND EITHER REPORT TO THE OSME OR GIVE PERMISSION TO RELEASE THE BODY TO THE MORTICIAN.

*This was our local-
Coroner's Policy for
Juneau in general*

*9/16: Substituted office of the
State medical Examiner - anywhere
"coroner" is referred to.*

(2992)

**JUNEAU
HOME DEATH POLICY**

Introduction

The purpose and intent of this policy and procedure for expected home deaths is to achieve the dignity and rights of the deceased, the privacy and confidentiality of the family, and the safety and welfare of the public. You are advised to follow this policy when assisting with an expected home death.

Before Death

1. Contact the Office of the ~~Coroner~~ to make the necessary arrangements to facilitate this process. Be ready to provide the necessary patient information, including: name, address, date of birth, social security number, next of kin, diagnosis, "certifying physician", supervising "licensed professional", and whether the JFD/EMS has a "Do Not Resuscitate Order".

2. If you are not the "certifying physician" who intends to sign the certificate of death, then it may be necessary for the Office of the ~~Coroner~~ to confirm the diagnosis and the expected cause of death with the certifying physician. The ~~SMC~~ ~~of the Coroner~~ after authorizing removal of the body from the scene will reconfirm the certifying physician's opinion before the body is released to the mortuary.

After Death With Licensed Professional

3. If the case is being supervised by a physician, registered nurse, or other "licensed professional" person licensed in Alaska to make a determination and pronouncement of death, then the individuals on the scene are instructed upon death to call this supervising individual. However, if the "licensed professional" can not be reached immediately, then the people on the scene are instructed to call 911. The EMS will respond in accordance with their "Do Not Resuscitate Protocol" and will wait on the scene until the arrival of the "licensed professional" if contact reasonably can be made.

4. The "licensed professional" will arrive on the scene, will assess the situation, will contact the Office of the ~~Coroner~~ ~~SMC~~, will advise whether the death occurred in the expected manner and will provide the following information: the patient's name, date of birth, date and time of death, and the "certifying physician" who intends to sign the certificate of death.

5. If in the unusual case the death occurred under circumstances which justifies further inquiry, then the appropriate police agency will be called upon to investigate. If in the normal case the death appears to have occurred as expected, then the coroner will give the authorization for the "licensed professional" to arrange for removal of the body without further on-scene investigation. The body will be released to the mortuary only after the coroner reconfirms the availability of the "certifying physician."

After Death Without Licensed Professional

6. If the case is not being supervised by such a person licensed in Alaska to make a determination and pronouncement of death or this "licensed professional" can not be reached immediately by the people on the scene, then the individuals on the scene are instructed upon death to call 911.

7. Dispatch of paramedic/police will occur. If and only if the patient has executed a "Do Not Resuscitate Order" (DNR) with the JFD/EMS, then the paramedic unit will be dispatched on a non-emergency basis without lights and siren. If there is no DNR or it can not be confirmed, then an ambulance will be dispatched on an emergency response basis.

8. With a DNR on the scene the EMS personnel will follow the DNR protocol. If death is obvious without signs of foul play, then ambulance personnel will wait on the scene until the arrival of the police and advise the police officer of their findings. The EMS personnel may not remove the body until the police officer arrives and authorization is obtained from the Office of the ~~Coroner~~ ^{State} If death has not occurred, then EMS personnel may elect to leave, administer care, or transport in accord with the DNR protocol.

9. Without a DNR on the scene the EMS personnel will administer appropriate emergency life support in accordance with departmental standard operating procedure.

10. If emergency transport is not done, then the police officer after arrival on the scene will notify the Office of the ~~Coroner~~ ^{State} of the unattended death before the body is removed. If emergency transport is done, then the hospital personnel will notify the Office of the ~~Coroner~~ ^{State} before the body is taken to the morgue. The hospital personnel will advise the ~~coroner~~ ^{State} of the date, time and by whom the death was determined and pronounced. The body will be released to the mortuary only after the ~~coroner~~ ^{State} reconfirms the "certifying physician's" opinion.

Proviso

The "certifying physician" will accept full responsibility for the determination of the medical cause of death and the conduct, judgment and supervision of the "licensed professional." If the "certifying physician", "licensed professional", paramedics, police officers, or coroner feel uncomfortable with any aspect of the situation, then they are authorized to and shall request a further investigation. Any such further investigation is not an indication of any wrongdoing, but rather that a request is being made to handle the case as a normal unattended death.

DRAFTED BY THE CORONER FOR ALL MEDICAL PERSONNEL

Juneau's own CBS DNR form
CODE STATUS ORDER SHEET

All patients are considered to be Full Code Status unless the following are indicated. Please check the treatment options you wish for this patient. Check one of these two:

- 1. Do Not Attempt Resuscitation (DNR)
- 2. Individualized Resuscitation Attempt (CHECK TREATMENTS TO BE WITHHELD)

- Cardiopulmonary resuscitation (CPR)
- ACLS Medications (with a cardiac monitored patient)
- Defibrillation
- Endotracheal intubation
- Mechanical ventilation
- Others _____

INSTRUCTIONS:

- 1. Telephone orders for code status are not acceptable.
- 2. Whenever a change in code status is made, the outdated Code Status Order Sheet will be marked "VOID" and dated across the front at the time of code status change. New order sheets must be filled out whenever a change in code status is required.

FOR USE BY BARTLETT REGIONAL HOSPITAL ONLY:

- 1. Physician must write or dictate a Progress Note to fully document the process by which the resuscitation decision was reached.
- 2. A new Code Status Order Sheet must be completed with each admission.
- 3. The active Code Status Order Sheet will be kept in the Advance Directives section of the patient record.
- 4. The patient will temporarily revert to Full Code status during surgery.
- 5. Refer to Policy entitled "Code Status" for more detail.

This is to inform you that the patient named below is known to me and should be cared for according to the above directions. This order is in accordance with the patient's and/or family's wishes, and/or the Living Will Act of the State of Alaska. I shall sign the patient's death certificate.

Date / Time: _____ Physician Signature: _____
 Patient Name: _____ Patient Signature: _____
 If patient unable to sign: Patient Representative Signature: _____
 Address: _____
 Date of Birth: _____ Diagnosis: _____

**CITY AND BOROUGH OF JUNEAU
BARTLETT REGIONAL HOSPITAL**

Addressograph

SME Office Form

EXPECTED HOME DEATH CASE REPORT

To add a patient to the State Medical Examiner's Home Death List the attending physician should sign the completed form and fax it to (907) 269-5069. All information must be typed.

Information Provided By: _____

Facility: _____

Phone: _____

Date: _____

Patient Name: _____

Patient Phone: _____

Date of Birth: _____

SS#: _____

Patient Physical Location (no P.O. Box) _____

Family/Contact (Name/Relationship) _____

Address _____

Phone: _____

Funeral Home Choice _____

Physician _____

Phone: _____

Nature of Illness: _____

As the attending physician for this patient, I confirm the illness listed above, that death is anticipated, and I agree to sign the death certificate if death occurs at home.

Physician Signature _____

Date: _____

Once the above information has been complete and verified, provide a copy of this form to police, troopers, health aide, or other emergency responders. Be sure the family knows who to call when the death occurs (police, health aide, etc.)

Date of Death: _____

Time of Death: _____

Death Pronounced By: _____

Officer: _____

Agency Case Number _____

*Copy of SME
Current Comfort
One form*



No.

PATIENT INFORMATION

PATIENT NAME: _____ DOB: _____
ADDRESS: _____ GENDER: M F

CERTIFICATION OF COMFORT ONE® STATUS

This form constitutes reliable documentation that the above identified patient is certified as a COMFORT ONE patient in Alaska under AS 18.12 and 7 AAC 16.10 and, as such, directs EMS personnel, health care providers, and health care facilities to not resuscitate the patient in accordance with these statutes and regulations.

Patient Signature: _____ Date: _____

My signature below constitutes and confirms a formal order to emergency medical services personnel and other health care providers to follow the Alaska COMFORT ONE protocol, as outlined in 7 AAC 16.10.010 - 7 AAC 16.10.090. I affirm that this order is written in accordance with accepted medical, legal, and ethical guidelines.

Printed Name of Physician Phone: _____

Physician Signature: _____ Date: _____

**Questions for State Medical Examiner's Office
(Responses DO NOT Affect Patient Care)**

Illness: _____

Will the physician named above agree to sign the death certificate if it occurs out of his/her presence and as a consequence of the listed illness? Yes No

Does this patient have a pacemaker? Yes No

INFORMATION TO PATIENT

This form, when completed, certifies you as a COMFORT ONE® patient under Alaska law. If this form or wallet card is presented to, or found by, emergency medical personnel or other health care providers, or you are wearing a COMFORT ONE bracelet, they will provide the care described on the reverse side. Emergency medical care will be directed to prevent avoidable suffering and to provide supportive comfort measures. It is understood that as a COMFORT ONE patient you will be allowed to die in the natural course of your illness.

REVOCATION

The COMFORT ONE status of the patient may be revoked, by the patient identified or the patient's attending physician, at any time.

If emergency medical services personnel, or other health care providers, do not see this form, the wallet card or the COMFORT ONE bracelet, they will attempt to resuscitate the patient in accordance with their standard procedures.

TCNY KNOWLES, GOVERNOR

P.O. Box 110816
Juneau, Alaska 99811-0816Emergency Medical Services
Telephone: (907) 465-3027
Telefax: (907) 465-4101Health Promotion
Telephone: (907) 465-3140
Telefax: (907) 465-2770Primary Care
Telephone: (907) 465-3091
Telefax: (907) 465-6661

Department of Health & Social Services
Division of Public Health
Section of Community Health and Emergency Medical Services

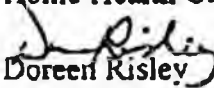
MEMORANDUM

RECEIVED

AUG 29 1997

DATE: August 28, 1997

TO: EMS Regions
 EMS Services
 Hospice Organizations
 Home Health Care Organizations

FROM: 
 Doreen Risley
 Community Health & EMS

SUBJECT: Comfort One Forms

Several agencies have asked about faxing the Comfort One forms for physician signature when a home death is imminent. While this is not a practice we encourage, we do understand that in some circumstances it is the best alternative for the patient and family. With that said, here is how we would like it handled:

- The patient will sign the form;
- The form will then be faxed to the physician for his/her signature;
- The form is then faxed back to the nurse who annotates the time and date and verifies this with his/her signature;
- The original is routed for signatures by the fastest means;
- If death occurs prior to the arrival of the original form, the responders will contact the physician for verification of enrollment.

Again, this is a practice we would like reserved for those circumstances where the nurse feels the death is likely to occur prior to the arrival of the original form. We encourage physicians to discuss the Comfort One program with terminally ill patients, therefore minimizing the necessity of this procedure. We endorse nurses discussing the DNR option with patients at home and facilitating the process of getting the forms completed. Above all patients need to understand that if at some point he/she changes his/her mind, the DNR may be revoked by destroying all forms and sending back the bracelet, if one was purchased.

As more patients are enrolled in the program I'm sure other questions will arise. Please contact me at 465-8633 so we can address the issue. Thank you for your cooperation.

*for post
order
Bracelets*

Policies on the Distribution of Comfort One Forms and Bracelets

Overview

The Department of Health and Social Services is responsible, by statute, for the development of a statewide do not resuscitate program. The department has adopted the Montana Comfort One program and is responsible for the development and printing of Alaska Comfort One forms.

The following agencies are responsible for distributing the Comfort One forms to physicians:

Contact	Southern Region EMS Council 6130 Tuttle Place Anchorage, AK 99507-2043	Interior Region EMS Council, Inc. 3522 Industrial Fairbanks, AK 99701	Southeast Region EMS Council, Inc. 207 Moller Drive Room 113 Sitka, AK 99835
Telephone	(907)562-6449	(907)456-3978	(907)747-8005
FAX	(907)562-9893	(907)456-3970	(907)747-1406
e-mail	sremsc@alaska.net	iremcs@alaska.net	serems@ptialaska.net

Form Distribution

The three Regional EMS Offices listed above are the sole sources of Comfort One forms in Alaska. They are authorized to distribute forms to physicians, mid-level practitioners, nurses, and other appropriate staff members, such as discharge planners, who work for an agency responsible for the care of terminally ill patients and which have direct physician oversight.¹ Such agencies include hospitals, nursing homes, medical clinics, Hospice agencies, or home health care agencies.

Individuals receiving the forms are responsible for ensuring they are completed appropriately.

The Regional EMS Office distributing the form should, to the extent possible, ensure that those receiving the forms have been instructed in their proper completion.

Bracelet Distribution

Optional bracelets are available to those enrolled in the Comfort One Program. The Comfort One form is accompanied by a postcard (Comfort One Bracelet Record) for ordering the bracelet. The patient may order the bracelet directly from the Regional EMS Office by mail or the patient, or the patient's agent, may bring the post card to the Regional EMS Office and purchase the bracelet there. In every case, the individual must provide the Comfort One Bracelet Record or

¹ This is the operational definition of "authorized health care providers" referred to in the brochure for patients and families regarding the Alaska Comfort One program.

other unequivocal verification of enrollment, such as a Comfort One form, to purchase a bracelet. The Regional EMS Offices may deny bracelets to those who cannot provide such evidence.

For more information, contact the nearest Regional EMS Office, the Section of Community Health and EMS at (907)465-3027, or visit the program's web site at:

http://www.bss.state.ak.us/dph/ems/ems_dnr.htm

Alaska Comfort One (Do Not Resuscitate) Program Recommendations for Physicians

On October 10, 1996, regulations (7 AAC 16.10.010 - 7 AAC 16.10.090) went into effect establishing a statewide do not resuscitate (DNR) protocol for physicians, FMS responders, and other health care providers. They also adopt, by reference, the Montana Comfort One[®] standards for DNR identification, including forms, cards, and bracelets.

Many local communities in Alaska have programs which augment the new statewide DNR system. Emergency Medical Services agencies, for example, may have a system for registering DNR patients with the emergency medical dispatch center. Such a system can result in a much more appropriate medical response to an expected home death. Consequently, physicians are encouraged to become familiar with local DNR programs.

Attached are blank forms for enrolling patients in the Alaska DNR program, also known as the Alaska Comfort One program.

To enroll a qualified patient in the program, you should:

- have the patient read and complete the form, answering any questions that may arise;
- sign and date the form and wallet card;
- give a copy of the form and wallet card to the patient;
- complete and return the DNR program data collection postcard; and
- purchase a DNR identification bracelet for the patient (optional).

The section of the form containing information for use by the State Medical examiner does not have to be completed for the do not resuscitate order to be effective. However, responding to the questions allows the Medical Examiner and law enforcement personnel to conduct investigations more quickly and with minimal intrusion.

You should make sure the patient signing the form:

- receives an explanation of the expected consequences of withholding or withdrawing cardiopulmonary resuscitation;
- is informed that if the wallet card, form, or bracelet is not apparent and immediately available, resuscitation efforts will be started and will continue until the patient is determined to have a valid DNR status; and
- receives an explanation of how, and by whom, the DNR order may be revoked.

If the qualified patient being enrolled in the program by the physician is unable to sign the form, the signature of others, such as family members, can be of value in demonstrating support of the DNR order. Consequently, physicians are encouraged to obtain such signatures when circumstances warrant. However, the signature of a family member or guardian does not provide legal permission for the do not resuscitate order. That authority is conferred by the signature of the physician.

Distribution of Form Copies:

- The white (original) copy of the form remains with the patient who should be encouraged to keep it in an easily accessible location.
- The second copy of the form is retained by the physician and included in the patient's medical file.
- The third and bottom copies of the form may be used by another agency to confirm enrollment in the Comfort One program. Local fire departments, emergency medical services agencies and hospice organizations are examples of such optional uses.
- A copy of the completed and signed form should be sent via fax to the office of the State Medical Examiner.

For additional information regarding the DNR program in Alaska, contact:

Section of Community Health & EMS
Department of Health and Social Services
Box 110616
Juneau, AK 99811-0616
(907)465-3141/FAX: 465-4101
email: mara@health.state.ak.us

Address of the State Medical Examiner:

Michael Propst, M.D.
State Medical Examiner
5700 E. Tudor Road
Anchorage, AK 99507-1264
(907)269-5090/FAX: 269-5069

This is our own agency Policy - for Hospice

* *We do not* HOSPICE AND HOME CARE OF JUNEAU
POLICY AND PROCEDURE
currently provide for Hospice patients

3pp

Subject: **EXPECTED CLIENT DEATH (HOSPICE PATIENTS)**

Drafted by: Catherine Cuenin, RN

Date Drafted: 12/20/91

Revised: Jan Young, RN

Date Revised: 02/16/95 12/96

Approved: Professional Advisory Committee

Date Approved: 04/11/95

Supersedes Date: 12/07/93

*Revised 1/25/96 by
9/24/96 S.L.*

Reporting a

PURPOSE:

1. Establish guidelines for responding to an expected death of a patient in the home in a manner which complies with:
 - A. Applicable rules and regulations.
 - B. The wishes of the patient and/or his/her representative.
2. Promote appropriate response and actions to maintain the patient's and family's dignity and comfort at the time of death.
3. Inform all Team members of the death in a timely manner.

POLICY:

1. The agency establishes a plan for patients who have chosen no intervention (do not resuscitate) through the execution of an advance directive. The process includes:
 - A. Notifying the physician.
 - B. Obtaining orders.
 - C. Educating the patient or family.
 - D. Establishing a plan for staff.
2. In the situation in which a patient who has executed an advance directive and chosen no intervention ceases respirations or pulse in the home, it:
 - A. Professional staff is present, the staff member will
 1. measure the patient's blood pressure, heart rate, respirations and make the determination of death.
 2. notify the ~~parents office~~ ^{physician's office} and report the death of the client, providing the client's name, time of death, date of birth, diagnosis, physician's name and responsible family/caregiver's name, address & telephone number.

add

REPORTING EXPECTED DEATH

* *All pts on Hospice Advice
are to participate in OSME
by completion of advance directive
within 4 weeks*

*THE
PHYSICIAN'S MEDICAL EXAMINATION*

- OSMC
3. notify mortuary or mortician on call, once coroner has released the body, and try to assist with removal of the body if it is to be within one hour. If the body is to remain in the home, prepare the family for mortician visit, informing them that the gurney must fit through doorways and beside the bed and that the client will be wrapped and removed in a shroud or body bag. The mortician may need some assistance with this procedure. The nurse should ask if he will be bringing an assistant.
 4. if the family has not met with the mortician before the death occurs, the nurse gives him the name, address and phone number of the next of kin and what they want done with the body (buried locally, cremation, shipped to another state etc.) when she calls to report the death. This saves the family some time and paperwork when he arrives. An appointment can be set up with the mortician for the next day so the family can complete further paperwork and plans. There will be a blank death certificate in the back of the on-call notebook. RN writes deceased patient's name on the top edge of the certificate above the perforation line, signs own name and records (in black ink) the date and time of death in appropriate boxes for Pronouncing Official.
 5. notify the attending physician of client's death if death occurs during day time or evening hours. Physician is notified the following day if death occurs at night unless otherwise directed.
 6. clean client, removes unnecessary tubes or equipment and straightens body. If body is to remain in the home, opens the window if possible.
 7. dispose of controlled medications with consent of family/caregiver (flushing down the toilet is the recommended method). Instructs the family/caregiver in legal responsibilities if they choose to keep these controlled medications. Document clearly.
 8. give support to the client's family.
 9. document client's death, the notification of the coroner and attending physician, the disposition of client's body and valuables, and other pertinent information in the client's clinical record within 24 hours.
 10. notify the Clinical Supervisor and the Volunteer Coordinator of client's death. If death occurs when the agency is closed, leave a message with the answering service for the office manager, contact anyone who might attempt a visit before being informed of the death by the HHCJ office, and fill out the Bereavement Follow-Up form, returning it to the office manager.
 11. contact the Executive Director or Medical Director of Hospice & Home Care if concerns or problems arise that the Registered Nurse and Clinical Supervisor are not able to handle.
 12. report the name of client and the time of death to coroner's office the next working day if the coroner himself did not take the call at time of the client's death.
- B. No staff member is present, HHCJ on-call RN responds to call from answering service by going to client's home, RN follows procedure defined above.
- C. The patient's family member decides to rescind the advance directive at the time of crisis, staff present will activate the emergency medical system and initiate Basic Life Support (BLS) procedures according to established procedure.
- D. A home health aide or other nonprofessional is present, that person will call the

answering service to contact HHCJ on-call RN. If possible, the non-professional staff member remains in the home until the RN arrives.

3. In the situation in which a patient who has not executed an advance directive ceases respirations or pulse in the home, if:
 - A. A professional staff member is present, he/she will initiate BLS procedure and activate the emergency medical system. Inform the MD who may give orders to stop resuscitation efforts and/or come to the home and pronounce the death himself, or cancel the EMS.
 - B. No staff member is present, same as *Unexpected Death Policy* except, notify MD who may give orders to stop resuscitation efforts or cancel the EMS after talking with the family.
 - C. A home health aide or other nonprofessional is present, he/she will initiate BLS procedures, activate EMS, and/or call the agency.
 - D. The patient dies, notify the coroner and contact the mortuary as in 2.A.3. of this policy.
4. If the emergency medical system is activated
 - A. The EMS personnel or physician may decide to transport the patient.
 - B. The EMS personnel may terminate measures in the home under physician orders.
5. A HHCJ Registered Nurse may make a determination and pronouncement of death of a patient (as defined in AK statute 08.68.395)
 - A. When the attending physician has documented in the client's record that the person's death is anticipated due to illness, infirmity or disease (documentation is valid for up to 120 days); and
 - B. When the attending physician authorizes in writing that any HHCJ Registered Nurse may pronounce the person's death.
6. The agency educates staff in the procedures for expected or unexpected death and emergency interventions during orientation and through ongoing education.

DEFINITIONS:

1. Expected Client Death includes only those clients whose names have been previously submitted to the coroner (Hospice patients only).
2. Do not resuscitate (DNR) means those situations when the patient has executed an advance directive and chosen no intervention.
3. BLS means Basic Life Support procedures as defined by the American Heart Association.

Adapted from the Beacon Policy Manual, Home Health Agency Reference Publications, Copyright

Cynthia Elliott, MS, RN
PO Box 2254
Kenai, Alaska
99611
283-6554

August 21, 1997

Dear Mr. Davis,

Pursuant to our conversation Saturday August 9th at the Women's Run, we are enclosing a proposal regarding expected home deaths and how they are handled in this area.

We are working with a Task Force composed of members of the local law enforcement agencies, fire departments, hospice, home health agencies and other interested health care providers in the community to create a process that is everyone can follow when a death occurs at home. Our last meeting included Dr. Michael Propat, the medical examiner for the State of Alaska who came down from Anchorage with Rhonda Burch, an investigator in his office. They feel that it is best to include law enforcement in home deaths because they feel more comfortable being reassured that nothing unusual occurred. Of course law enforcement feels the same way. All of the officers at these meetings feel that the law should be interpreted to mean they have to be called to the home when a person dies there. They consider the home of the recently deceased to be a crime scene and that nothing should be touched until an officer arrives. At this time, we have agreed to handle home deaths this way. But we are greatly opposed to this process.

As I said Saturday when we spoke, I know of one family member who is willing to express her concern about involvement of police and fire department personnel in home deaths. I can and will approach the family member in Nikiski if you think that would be helpful toward changing this process.

Please advise us on how to proceed. Thank you for your interest in this matter.

Sincerely,



Cynthia Elliott, MS, RN
Liz Schubert, Executive Director
Hospice of the Central Peninsula

enclosures: copies of letters from doctors
copies of news articles re: State Troopers
copies of relevant Alaska Statutes
copies of minutes from Task Force Meetings
Proposal

Cynthia Elliott, MS, RN
PO Box 2254
Kenai, AK 99611

January 8, 1997

Dear Drs. Bramante, Crane and Kelley,

I am writing to ask your assistance in handling "expected home deaths." I am a nurse currently working at First Choice Home Health Care, am in the process of joining the Board of Directors of Hospice of the Central Peninsula, and have 5 and ½ years experience at a Hospice in North Carolina. Since my arrival here, I have heard disturbing reports from nurses about the involvement of local police, fire department and/or state troopers in home deaths.

My position is that death at home can be a natural, smooth occurrence, and removing unnecessary steps and personnel from the situation would reduce the trauma to the family and nursing staff involved. Alaska State law only requires that a peace officer be notified of a home death. A registered nurse can pronounce the death and notify the attending physician and funeral director.

I would like to have a discussion with law enforcement agencies about their policies/procedures for responding to notification of a death. Your support would be greatly appreciated. Please let me know your opinions on this matter, and whether or not you would support me in an effort to reduce the confusion at expected home deaths in this area.

Sincerely,

Cynthia Elliott, MS, RN