

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 00/2

9539 SENATE HEALTH EDUCATION & SOCIAL SERVICES 176

SUBJECT	CURRENT STATE LAW	FEDERAL LAW	GOVERNOR'S PROPOSAL
Expedited Permanence for Infants	Not in statute.	Required in 42 USCS 5106a (b) (2) (A) (xi) (I) for abandoned infants.	Expedited for children younger than 6 years old. AS 47.10.013 and 47.10.088 (d) (2).
Child Rights vs. Parental Rights	Outcome of case is determined by burden of proof and best interests of child.	Child's health and safety is of paramount concern. 42 USC 671 (a) (15) and 42 USC 629b (a) (9).	Best interests of child is primary concern. AS 47.10.086 (f) and 47.10.088 (b) and (c).

Wilken

ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE
Division of Legislative Finance



P.O.Box 113200
Juneau, AK 99811-3200
(907) 465-3795
FAX (907) 463-4885

MEMORANDUM

DATE: March 26, 1998

TO: Senator Drue Pearce, Co-Chair
Senate Finance Committee
Attn: Stephanie Syzmanski

FROM: Susan Taylor, Fiscal Analyst *ist Taylor*
Legislative Finance Division

SUBJECT: Bills relating to federal compliance

We contacted all executive branch departments and asked if there was any legislation introduced that is necessary to comply with federal laws and/or if there would be any federal funds sanctions if certain legislation was not passed this legislative session.

The attached schedule includes legislation required to bring the state into compliance with federal requirements and the potential impact if the legislation is not passed.

If you have any questions, please contact me at 465-5410.

5 —
For our files.
Re: GOV'S HESS Bills

Federal Compliance Bills

Potential Impact

Environmental Conservation

Drinking water standards

Must be passed by next session.

HB 71 An Act relating to administrative penalties for violation of public water supply system requirements; amending Alaska Rule of Civil Procedure 82 regarding attorney's fees

SB 50 An Act Relating to administrative penalties for violation of public water supply system requirements; amending Rule 602(b), Alaska Rules of Appellate Procedure

Health and Social Services

Legislation required to access federal funds -
"kiddie care"

Federal funds can be carried
forward to next fiscal year

HB 369 An Act relating to Medicaid coverage for certain eligible children and pregnant women; relating to primary care case management and managed care services as optional services and to premiums and cost-sharing contributions under the Medicaid program

HB 266 An Act relating to Medicaid coverage for certain eligible children and pregnant women; relating to primary care case management and managed care services as optional services and to premiums and cost-sharing contributions under the Medicaid program

Health and Social services - Child Protective Services

Attached is a summary of the bills before the legislature and the changes required.

The potential federal fiscal sanctions are unknown at this time. It is likely that the federal government would warn the state of the noncompliance and the state could remedy it in the next legislative session.

Federal Compliance Bills

Public Safety - Sex Offender Registration

Loss of 10% of Byrne funds or
\$220.0 to \$240.0 per year.

SB132 An Act relating to registration of sex offenders and central registry of sex offenders; relating to access to, release of, and use of criminal justice information and systems; relating to notices concerning sex offender registrants

HB 186 An Act relating to registration of sex offenders and central registry of sex offenders; relating to access to, release of, and use of criminal justice information and systems; relating to notices concerning sex offender registrants

HB 252 An Act relating to criminal records; relating to notice about and registration of sex offenders and child kidnappers; and amending Rules 11(c) and 32(c), Alaska Rules of Criminal Procedure.

Revenue - Child Support Enforcement Division

CSED and TANF federal funds
sanctions

Last year's SB 154 implemented most of the changes needed as a result of welfare reform; provisions are still necessary to require employers to report new hires to DOL, Alaska to recognize liens placed on property within the State by other state's CSED

HB344 An Act relating to paternity establishment and support orders; relating to the crime of criminal nonsupport.

SB252 An Act relating to paternity establishment and support orders; relating to the crime of criminal nonsupport.

Comparing Child Protection Proposals

SUBJECT	CURRENT STATE LAW	GOVERNOR'S BILL
Murder One AS 11.41.100	Amended in Governor's Bill	Amended in SB 218
Murder Two AS 11.41.110	Amended in Governor's Bill	Amended in SB 218
Crim Neg Homicide AS 11.41.130	Amended in Governor's Bill	Amended in SB 218
Indecent Exposure One AS 11.41.458	Additional statute in Governor's Bill	Additional statute in SB 323
Indecent Exposure Two AS 11.41.460	Amended in Governor's Bill	Additional statute in SB 323
Possession of Child Pornography AS 11.61.127	No change in current law.	Amended in SB 323.
Endangering the Welfare of a Minor One AS 11.51.100	Amended in Governor's Bill	Amended in HB 333; SB 282.
Endangering the Welfare of a Minor Two AS 11.51.110	Amended in Governor's Bill	Amended in HB 333; SB 282.
Criminal Nonsupport One AS 11.41.115 51	Amended in Governor's Bill	
Criminal Nonsupport Two AS 11.51.120	Amended in Governor's Bill	
Manslaughter AS 12.55.125 (c)	Amended in Governor's Bill	Amended in SB 218

*Sen Halford
(H) JUD*

*Sen Pearce
(H) JUD*

*HB 333 -
Dyson (H) ES
SB 282 -
Torgi (S) JUD*

Department of Health and Social Services

Prepared by the Department of Health and Social Services

SUBJECT	CURRENT STATE LAW	GOVERNOR'S BILL
First Felony Sentence AS 12.55.125 (k)	Amended in Governor's Bill	Amended in SB 218
Sex Offender Registration AS 12.63.010	Amended in Governor's Bill	Amended in SB 326; HB 252
Notice to Public of Sex Offenders AS 18.65.087.	Amended in Governor's Bill	Amended in HB 273; HB 326; HB 252.
Child Fatality Review Team AS 12.65.005	Additional statute in Governor's Bill	
Notice of Release of Sex Offender AS 33.30.012	Amended in Governor's Bill	Amended in HB 252.
Child Abuse Investigations AS 47.17	Amended in Governor's Bill	Amended in SB 323; SB 295; HB 453; HB 340.
Child in Need of Aid Jurisdiction AS 47.10.010	Amended in Governor's Bill	Addressed in HB 366. Dyson (H) R1s
Preference for Kinship Care AS 47.14.100 (e)	No amendment to current law	Addressed in HB 332. James (H) HES
Access to CINA Proceedings AS 47.10.	Amended in Governor's Bill	Amended in HB 340; HB 456; HB 371; HB 340. (H) HES - Dyson
Timelines for Permanency	Amended in Governor's Bill	Amended in HB 456.
Permanency Planning for CINA Cases	Amended in Governor's Bill	Amended in HB 456.
Confidentiality in CINA and JD cases AS 47.10.093; AS 47.12.310	Amended in Governor's Bill	Amended in HB 453; HB 456.

SB326 - Ward
(S) STA
HB 252 - Ryan
(H) R1s
HB273 - Mosek
(H) JUD

Parce (H) JUD
Parnell (S) FIN
Hodgins (H) HES

Dyson (H) HES
Hodgins (H) HES

Dyson (H) HES

SUBJECT	CURRENT STATE LAW	GOVERNOR'S BILL
Licensing Child Placements AS 47.35	Amended in Governor's Bill	Amended in HB 453. Dyson (H) HES
No Teaching Certificates for Sex Offenders AS 14.20.	Amended in Governor's Bill	Amended in SB 323. Pearce (H) JUD
Child Protection Teams AS 47.14	Amended in Governor's Bill	Amended in HB 340. Hodgins (H) HES
Poverty as CINA Jurisdiction AS 47.10	No change in current law.	Specified in HB 366. Dyson (H) RLS
Custodial Rights AS 47.10.084	No change in current law.	Amended in HB 391. Kelly (H) HES
Runaways AS 47.10.141	No substantive change.	Amended in HB 391. Kelly (H) HES
Reasonable Efforts to Return Child Home	Amended in Governor's Bill	
Resources for Foster Parents	Amended in Governor's Bill	Amended in HB 456. Dyson (H) HES

SB 272 / HB 375

- ***Make child health and safety paramount in all child protection actions***

The bills follow the direction of federal law in establishing that the health and safety of children are the most important considerations in child protection decisions and actions. Under existing state law, the rights of parents to raise their child may result in a child being returned to a dangerous home.

- ***Continue requirements to make reasonable efforts to preserve and reunify families but limit application in certain aggravated situations***

States continue to be required to make efforts to preserve and reunite families except in situations where it is clearly not in the interests of children such as:

- 1) when a child has been abandoned, tortured, subjected to chronic abuse or sexual abuse;
- 2) a parent has killed a child or has assaulted a child and caused serious physical injury to the child;
- 3) a parent's rights to a sibling have been involuntarily terminated.

- ***Require faster transition to safe, permanent homes for victims of abuse and neglect***

Federal law establishes requirements for faster action to prevent child victims from lingering in temporary care for years while parents make repeated, unsuccessful attempts to remedy behavior that places the child at risk in their home. These bills follow federal law in:

- 1) requiring earlier hearings to establish a permanent plan (within 12 months of a child's removal from his or her home);
- 2) establishing strict timelines for action to terminate parental rights when children have been in foster care (action is required when children have been in foster care 15 of 22 months);

These bills set strict time limits for action by both parents and state agencies to assure parents make changes that allow children to return home safely or that state agencies act to speed up legal proceedings and place children in safe, permanent families.

- ***Establish procedures for criminal records checks for any prospective foster or adoptive parents before the parents are finally approved for placement of a child***

The bill insures that children are placed in homes that have been thoroughly investigated, prior to placing a child there. Persons over 16 in a licensed home who cares for children will be required to complete a thorough criminal background check using fingerprints. Licensed homes will be regularly rechecked for criminal activity.

- ***Allow foster parents and other caregivers to take part in child welfare hearings***

The bills follow federal law in allowing foster parents and caregivers for children to get notice of hearings and be heard in hearings regarding the child in their care.

SB 272 / HB 375

- ***Increase penalties for homicides and other crimes with child victims***

Persons who kill children rarely intend to kill and are often charged with less serious charges than those persons who kill adults. The bills allow more serious charges for those who kill children, when their multiple acts of violence resulted in the death of a child.

 - 1) The bills increase the penalties for those who kill children. Under existing law, a person convicted in shaken-baby deaths can be sentenced to no more than two years. Under the new law the maximum sentence would increase to 10 years.
 - 2) Alaska joins other states in criminally penalizing abandonment, abuse, and neglect of children.
- ***Tighten and clarify sex offender registration requirements***

Like many states, Alaska now has a law requiring convicted sex offenders to register so their whereabouts can be tracked and the public protected. Still, an estimated 788 sex offenders have avoided registration. Under these proposed bills sex offenders would be required to register before leaving prison.
- ***Create a Child Fatality Review Team to investigate child deaths***

Between 1992 and 1996, as many as 10 abuse-or neglect-related child deaths went undetected in Alaska because no systematic process existed to review child deaths. These bills would place in statute a child death review process through the State Medical Examiner to ensure that deaths from abuse and neglect are identified and prosecuted and that action is taken to protect surviving siblings.
- ***Allow earlier intervention in cases of abuse and neglect***

Current Alaska law, as interpreted by recent Supreme Court decisions, limits protection for children by allowing intervention primarily *after* harm has occurred or only when *substantial physical harm* is imminent. These bills would clarify the grounds for intervention and allow intervention *before* harm occurs, as soon as a child is found in a dangerous home. Intervention to change the home situation could occur before, rather than after, a child is hurt.
- ***Incorporate changes in federal law to better protect children and move them quicker into safe, permanent homes***

Research teaches us that children younger than 6 need to attach and bond to a permanent secure caretaker. The bills allow children younger than 6 who have been abandoned to be quickly placed into permanent safe homes.



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate HESS
 Committee on SB 272 Committee Name
Bill / Subject Dated 4-8-98

I support enactment of this bill. Judging by the time and effort put in by the House HESS committee, ~~and~~ ~~predict that~~ on its companion bill, I would guess that this committee will want to ~~that~~ review it in detail. I urge you to start this quickly, as it is vital that some version of this get passed this year. Alaska's children need these changes.

SIGNED: *Archer Hunt*
 Testifier

Representing
4624 Stanford Drive Fairbanks AK 99709 479-3990
 Address / Phone Number

Author: guardian@xyz.net (linda gauthier) at CC2MHS1

Dear Senators:

Tomorrow you will be listening to a presentation of SB 272 by the Administration. In the House, the person usually presenting for the Dept. of law was Susan Wibker.

We noticed that in the House HESS committee conferences for HB375, Ms. Wibker consistently misrepresented actual federal requirements and mandates that are the Administration's main thrust in foisting this ill-advised legislation on the public.

For your information, sites on the Internet where you can download these actual laws are

<ftp://ftp.loc.gov/pub/thomas/c105/h867.enr.txt>

This is the Adoption and Safe Families Act of 1997, the most recent federal legislation in this area. There is actually VERY LITTLE in the 18 pages of this Fed legislation that REQUIRES the States to do anything. The exception is the actual timelines for children in foster care having thier parents rights terminated quicker, and even that contains qualifiers pertaining to the States ability to provide services (treatment, counselling, etc) to the parents. Anything else Ms Wibker tells you about federal requirements for the states under this legislation is a deliberate misinterpretation and should be challenged. She will tell you that she "doesn't have a copy of the actual law" with her. (this is standard for her). Ask her why not. If we are paying her a very lucrative state salary to "lobby" for these bills (rather than do whatever job she is supposed to be doing) the least she could do is come prepared.

The next relevant Internet access is

<http://www.ncsea.org/publications/fedbill.html>

This is the Personal Responsibility and Work Reconciliation Act of 1996. It is also known as the Welfare Reform Act. This act is also used by the administration to justify the provisions in SB 272 and HB 375.

This bill is 238 pages, but most of it is irrelevant. In point of fact, it sets forth standards for the inclusion of representatives from PARENTAL RIGHTS ORGANIZATIONS to be included in advisory commissions on the various components of the Child Abuse Industry, a provision which each and every Abuse Moonie from this Industry finds it convenient to ignore.

Of particular interest in this legislation is the phrasing of "Sec. 417. Limitations of Federal Authority" on page 82, quote

" No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part."

The third piece of federal legislation quoted by the administration in hearings on HB375 is to be found at

<http://www.acf.dhhs.gov/programs/cb/policy/capta.htm>

This is a version of the Child Abuse Prevention And Treatment Act, and contains the latest version and a legislative history with amendments. It is 27 pages.

I know this is a lot of legislation to wade through, but you shouldn't have to. If the administration spokespersons demand that you amend State law to conform to Federal Mandates and Requirements, they should be prepared to show you chapter and verse page by page of what provisions in federal law actually require you to do anything.

The next excuse from the administration will be that, while fed law may not actually require such legislation on the part of the states, the states will lose grant money or matching funds if they do not comply with certain federal regulations. This is a lie. The federal budget actually contains specific language PROHIBITING FEDERAL AGENCIES FROM INVESTIGATING FRAUD AND ABUSE IN SOCIAL SERVICES. Alaska also has a very powerful congressional delegation in DC that has been successfull in the past in obtaining exemptions and changes in fed law and regulation based on Alaska's unique circumstances. No state in America has ever lost title IV funds for non-compliance. EVER. The bureaucrats in DC are not interested in taking money back, they want to give it away so they can ask for more every year, much like the bureaucrats in Alaska.

Representatives from our various parental rights organizations will be listening to the teleconference tomorrow, and taping it at home if it is on Gavel-to-gavel. We hope and pray that you will live up to your responsibility to those who elected you to CUT THE SIZE AND SCOPE OF GOVERNMENT. SB 272 and HB 375 will double the numbers of children in foster care in two years, with concurrent increases in demands from every profitable "non-profit" service provider that has been enriching itself off the misery of children for twenty years. The more social workers you

hire, the more reports of abuse there will be. It is a closed-loop system of never-ending expansion. Please draw the line this year, and table this ill-advised legislation.

Thanks for your time.

Walter Gauthier
Guardians of Family Rights
Box 2246
Homer Alaska 99603
232809

ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the

Senate HESS

Committee on

HB375

Committee Name

Dated

4-29-98

Bill/Subject

Please enter this as testimony concerning HB375 which is being heard today.
4-29-98

To: Senate HESS

From: Jonathan and Ruth Ewig
2325-30th Avenue
Fairbanks, Alaska 99701
phone and fax: 907-452-5538

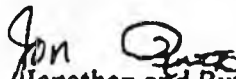
RE: HB375-The Governor's bill which increases power and money to the Department of Health and Social Services

THIS IS A DANGEROUS BILL! Vote NO. Kill it, bury it. Do what you need to do.

This department already wields too much power. They invested 25% of their money to kill 843 unborn babies just last year. (See next page article.) Does this kind of decision-making protect children from child abuse? No. Abortions are the ultimate child abuse and the department is using our state money to finance abortions. They could better serve us by referring women to one of many statewide Crisis Pregnancy Centers where the mother and baby are helped, rather than killing the baby and wounding the mother.

In the article included in my testimony the department assures us that they will do what they want with the funds. That is high-handed and apparently they do not fear any authority. Do the only right thing. Oppose HB375 and when possible eliminate this department and delegate their functions to the churches where it belongs.

Sincerely yours,


Jonathan and Ruth Ewig
Pro-family parents

Fairbanks, Alaska 99701
907-452-5538 (also a fax line)
907-479-5433

HELPING PARENTS HELP KIDS



CHILDREN'S RIGHTS COUNCIL



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"Dear Abby"
 (Abigail Van Buren)
 Los Angeles, California

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 U.S. Senator, Tennessee

Honorable Bob Graham
 U.S. Senator, Florida

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Larry Gaughan, Director, Family
 Mediation of Greater Washington, D.C.

Jonathan M. O'Leary, President
 Jonathan Goodman Foundation
 Los Angeles, California

Jennifer Itham, President
 Mothers Without Custody (M.W.C.)
 Crystal Lake, Illinois

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 Telephone (202) 547-8227 • Fax (202) 546-4CRC (4272)

ALASKA PRESIDENT & STATE COORDINATOR

317 Maple
 Kodiak, Alaska 99615
 (907) 486-2290

April 27, 1998

SB272

The Honorable Mark Hanley, Co-Chairman
 The Honorable Gene Theriault, Co-Chairman
 House Finance Committee
 Juneau, Alaska 99801-1182

Dear Chairmen Hanley and Theriault:

Attached is my lengthy testimony on CSHB375. The opponents of this bill were given such short periods of testimony in other committees. I felt it necessary to thoroughly discuss CRC's objections to CSHB375 in this manner. I was hoping to have the opportunity to discuss this with you per a telephone conference

Please have your committee staff copy and distribute this testimony. I am faxing an additional 12 pages concerning the federal CAPTA amendments to supplement this testimony. I would appreciate having 10-15 minutes to testify against CSHB375 to bring out some of the problems that the HESS and Judiciary committees did not allow to be aired.

Please note the CRC letterhead, and take time to read the names of our national officers and numerous members of our advisory panel. Thank you for your assistance and cooperation in this matter. I will be available for questions that the committee may have.

Sincerely,

James J. Beffington
 President and State Coordinator

The Children's Rights Council of Alaska
 Chairman, The Alaska Task Force on Family Law Reform 1995-1997

A NON-PROFIT, TAX EXEMPT ORGANIZATION STRENGTHENING FAMILIES THROUGH EDUCATION AND ASSISTING CHILDREN OF SEPARATION AND DIVORCE

Elizabeth Kübler-Ross, M.D.
 Author, Psychiatrist
 Grand Waters, Virginia

Vicki Lantry
 Author, Columnist
 Decatur, Minnesota

James Levine
 Families and With Institute
 New York, New York

John Money, Ph.D., Professor of
 Medical Psychology and Pediatrics
 Johns Hopkins University and Howard
 Baltimore, Maryland

HELPING PARENTS HELP KIDS



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U.S. House of Representatives, Michigan

Honorable Steven and Bechler
U.S. House of Representatives, New York

Kay and Ray Reynolds, Co-founders
Grandparent Rights in New Strength
(G.R.I.N.S.), Columbus, Indiana

David Birney, Actor
Santa Monica, California

Pat Boyd, President
Parents Without Partners (PWP)
Chicago, Illinois

Jim Cook, President, John Corody
Association, Los Angeles, California

Karen DrCruz
Former President of N.O.W.
Juncosville, New York

Olivia H. Diamond, Co-Founder, CRC
Reston, Virginia

Phyllis Diller, Comedian
Los Angeles, California

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Jennifer Isham, President
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TESTIMONY on CSHB375

Version 0-GH2009\H

(Monday, April 20, 1998)

The Children's Rights Council of Alaska adamantly believes THE BEST PARENT IS BOTH PARENTS.

A child has the right to frequent, continuing, and meaningful relationships with both their parents and their extended family. A child also has a right to adequate food, shelter, clothing, medical care, and education. CRC agrees that our children have a right to protection from sexual, physical, or emotional harm.

CRC does not support this version of CSHB375 or the previous 4-5 versions. CSHB375 CANNOT BE FIXED!!!! This bill in its current form, with its extensive amendments needs to pass both houses by a two-thirds majority or it fails. Our recommendation, let CSHB375 die in the Judiciary Committee. Throw CSHB375 in a drawer and leave it there. Adopt HB384 instead. DFYS could wait on recommendations from a Legislative Commission. A legislator or the governor could provide a simpler version of CSHB375 concerning the Adoption and Safe Family Act of 1997 (ASFA) or the Child Prevention and Treatment Act of 1996 (CAPTA).

A NON-PROFIT, TAX EXEMPT ORGANIZATION STRENGTHENING FAMILIES THROUGH EDUCATION AND ASSISTING CHILDREN OF SEPARATION AND DIVORCE

Elizabeth Kibler-Ross, M.D.
Author, Psychiatrist
Herald Waters, Virginia

Vicki Landry
Author, Columnist
Decatur, Michigan

James Levine
Parent and Work Inmate
New York, New York

John Money, Ph.D., Professor of
Medical Psychology and Pediatrics
Johns Hopkins University and Howard
Hollister, Maryland

When making child protection law, the KISS principle ("Keep It Simple, Sam") and common sense are two of the best tools you have to determine how to effectively legislate. The laws you make today, must be consistent and conform to federal laws and regulations. Also keep in mind, CSHB375, may one day affect your life, when you, as a parent or a grandparent, find yourself under investigation by DFYS.

Remember laws are open to interpretation by administrators, lawyers and judges. DFYS and their employees do not consider the legislature's or even your personal intent of any law in the many daily decisions that DFYS makes. Most agency clients will use their own common sense and not understand nor care how your intent has become so misdirected. Ask your staff about some of the horror stories that agency clients relate to them.

Department of Health and Human Services Secretary, Donna Shalala, testified in 1996 "that close to one million children a year are abused or neglected nation-wide. While these numbers may be staggering, we should also be concerned by the nearly 2 million false and unsubstantiated reports of child abuse and neglect that are filed wrongfully, and in some cases maliciously." David Lieberman, Executive Director of the Child Welfare League of America admits that 62% of allegations of child abuse and neglect are false. CPS agencies across the United States have estimates of false and unwarranted allegations of up to 80%.

The high level of false allegations lead to the more severe cases going uninvestigated, underinvestigated, or slip through the cracks entirely. Most false allegations are made by the residential parent who has recently separated or divorced to gain control in custody settlements. Out of loyalty, family and friends of the residential parent also make false allegations. Other intra-family and neighborhood feuding are also causes for wrongful or malicious allegations. CSHB375 will not fix one of these problems.

HB375 and all CSHB375 versions are the most complicated, extensive and convoluted bills under the auspices of "child protection" I have seen in five years. This bill, with all the revisions, attempts to change CINA, criminal, child support, marriage and divorce, teacher certification, foster care and child care licensing statutes and the amending of Alaska Rules of Appellate Procedures and Alaska Child in Need of Aid Rules.

CSHB375 has been misrepresented to the house committees by Susan Webbiker and Karen Perdue, testifying that CSHB375 will conform to CAPTA and ASFA.. Their misrepresentations of this bill are what makes this bill so frightening. **THIS BILL CANNOT BE FIXED!!!** Amendments and changes should not be done to gather more approval for a "bad" bill. Amendments and changes should be done to make a "good" bill better. HB375 was a bad bill. The final version of CSHB375 is still a "bad" bill.

CINA statutes, regulations, and department policies also need to conform to a legislatively set "standard of duty". CSHB375 does not set a "standard of duty", and very loosely conforms to the CAPTA and AFSA. CAPTA requires states to set a "standard of duty" through the development of a state plan. The department has not been forthcoming with CRC's request for the state plan filed with DHHS in 1997. Therefore, we must remain silent to what we understand to be included in the plan.

CAPTA requires no less than three citizen panels to act as departmental oversight "to provide now opportunities for citizens to play an integral role in ensuring that States are meeting their goal of protecting children from abuse and neglect. (Congressional Record - House, pp H11148-9, September 25, 1996)." The teams DFYS has designed are not departmental oversight teams. The state child fatality team and multidisciplinary teams designed in CSHB375 are inter-agency investigative teams under direct supervision and direction of the department. The two "secretive" teams do not meet CAPTA or ASFA criteria.

No action on this act is mandated by the federal acts, unless DFYS wants to apply for additional "federal bounty" provided in CAPTA, ASFA or the Interstate Compact on Adoption and Medical Assistance. The CAPTA grant is worth \$200,000 each year to Alaska, for the next five years. The States have an interim planning period to implement the CAPTA changes to qualify for the CAPTA grants. The governor's certifications that accompanied the State plan submitted in FY97 under CAPTA, included an assurance that the citizen review panels were already in place or would be in place no later than June 30, 1999.

This bill is not a "pure" child protection bill. CSHB375 creates a whole new inter-departmental bureaucracy. A great deal of this bill designs two "secretive" investigatory teams

This bill is also clouded with too many emotional issues. There are too many "cooks in the kitchen" so to speak. You have had the Department of Law and the Attorney General's office, DFYS, DHSS, CSED, Council on Domestic Violence and Sexual Abuse, Guardians ad Litem, caseworkers, and foster/adoptive parents all fighting for a piece of the pie. Sections 29-57 will also need a two-thirds majority of each house to even become effective. So, the legislature has an uphill battle with this massive bill.

CRC also is concerned that the agency's continued financial interest in CSHB375 should be called into question. CRC felt block grants developed in the Welfare Reform Act of 1996 would reduce the department's financial interest on children under its supervision or custody.

The Adoption and Safe Families Act of 1997 through CSHB375 sets a "federal bounty" on the heads of our children. Every child the state can remove from their family and place for adoption, the state will be paid \$4000 to \$6000 along with the annual federal block grants paid under the Welfare Reform Act 1996. The "federal bounty" will be paid for all permanent medical placements and adoptions within or outside the state under the Interstate Compact on Adoption and Medical Assistance. I have yet to hear DFYS or the members of any legislative committee address this portion of the federal law or the proposed state CINA revisions.

The state has implied that they will not attempt to seek this "federal bounty". It will be the first time in the history of the department that it fails to attempt to use children entrusted in their care to the department's financial interest. Application by the state is not required to qualify the state for the "federal bounty".

The recently completed audit of DFYS did a good job up to a certain point. The audit touched on the report of harm (ROH) prioritization, the screening and investigative process, and workload adjustment. The 1997 reports of harm in Alaska are staggering 15,547 statewide. There were 10,529 ROHs assigned for investigation, leaving 3,740 workload adjusted not assigned for investigation. 1,278 ROHs remain unaccounted for in the audit. CRC assumes that 1,278 ROHs slipped through the cracks. This is unacceptable.

What the report does not tell the legislature, except on page twelve, how many 1997 cases were confirmed with child in home, confirmed with child removed, unconfirmed/closed, unconfirmed/ongoing, and invalid. If page twelve is any indication of the dispensation of the DFYS caseload, then 90% of DFYS cases are either unconfirmed or invalid. Page twelve sites 10 samples of ROHs. Out of ten cases, 1 child removal occurred. Four (4) cases were unconfirmed and closed. Three (3) cases were unconfirmed and we assume assigned for ongoing investigation, since there was no notation of "closed". One (1) case was invalid.

I have never heard one legislator ask for this information breakdown. Odds are that if asked, DFYS will claim that due to lack of staff and delays in entering case information into their computer, accurate information is unavailable. This is inexcusable. However, their estimates may give a somewhat supportive view that more caseworkers and funds are needed to make improvements at the agency. CSHB375 will not reduce one of these statistics. CSHB375 will actually increase every one of the statistics mentioned in the audit. Then the department will need even more money and staff to battle the increases the department will be causing themselves through CSHB375.

DFYS's only public response -- the department always needs more employees and more money to throw at the department's problems. DFYS employees say the department suffers mainly from incompetent administrators and supervisors. The department is top-heavy in management levels. Caseworkers complain to CRC and others -- the agency has irregular and unspecified administrative policies, unspecified ROH priorities and ineffective protocols and no ongoing training. The audit confirms these scenarios in their March, 1998 report. CSHB375 will not fix one of these problems.

The recent audit also reports DFYS staff is untrained, inexperienced and many front line-caseworkers are without degrees in social work. A department in such disarray strains the staff and develops high attrition. Ever changing parental plans along with non-existent, poor, infrequent, or limited family support services result in the parents' inability to respond and satisfy DFYS "standard of duty" requests, resulting in poor client relationships. The list of staff and client complaints continues to get longer. CSHB375 will not fix one of these problems.

Pages of recommendations were made through the Alaska Senate Task Force on Family Law Reform 1990 - 1991, the Alaska Task Force on Family Law Reform 1995 - 1997, the Legislative Audit 1998, various and numerous state-sponsored ombud, committee, commission, conference, summit and seminar reports. Constituent complaints go unheeded. Along with all the recommendations and reports outside the department, there are numerous annual federal/state changes in law and regulatory fiat. For more than eight years the department has fought the fight, and still, remains aloof, distant and entrenched. DFYS sees no reversal in Alaska numbers of ROHs nor improvement in the way DFYS does business.

According to most clients, Alaska DFYS's whole approach to allegations makes parents feel incompetent and like criminals. Parents must prove their innocence. Most parents bend over back to get DFYS out of their hair, only to have DFYS change the parenting plan in mid-stream or add other allegations to maintain DFYS control.

However, any parent accused of criminal behavior, which would include, sexual assault or molestation, physical harm, torture or death, domestic violence, or other emotional harm also have rights. Accused parents have the right to a quick, but thorough investigation, a speedy hearing, and exoneration if the allegations are found to be unsubstantiated, invalid or even false. CS HB375 has no protection of a parent's civil rights, due process, constitutional guarantees of protection from unjust or malicious prosecution, fair adjudication, or exoneration when allegations are found to be invalid or unconfirmed.

Exoneration of allegations does not occur in DFYS. Wrongful or malicious allegations continue to mount. In time, to DFYS, this proves a prima facie case against the alleged perpetrator. Parents and families who perpetuate wrongful or malicious allegations know of this loophole, because there are no penalties for false reporting, now required under CAPTA. DFYS purports that to file charges against persons accused of false reporting will reduce the number of reports of harm out of fear of prosecution for false allegations. States who already adopted the mandated CAPTA false allegation penalty provisions are showing decreases in unsubstantiated and invalid allegations.

CS HB375 is part of Governor Knowles' "Smart Start" Program. The governor is spending thousands of taxpayer dollars in brochure/pamphlet publication, advertising, and state-wide swings in state planes to promote his so-called "Smart Start Program". Yet, ten departmental front-line caseworker positions went unfilled in 1997. 20-page booklets, "Alaska's Children of a Hidden War" are being passed out to the legislature, at public events, Knowles campaign-oriented events, as well through other state government offices. Is the governor or the department using state money wisely? What about the unethical or illegal misuse of state funds to promote a campaign for re-election or "Smart Start" programs?

Where was Governor Knowles during the last four years, when the problems at DHSS and DFYS were mounting? Until it came to re-election time six months ago, the governor and the agency administrators were not on the scene. Now comes the "Smart Start" program -- protecting children and improving "out of control" agencies -- makes for good campaign re-election sound bites.

Children, like the little boy who was killed in Fairbanks, the Anchorage girl who had sixteen ROHs, or the Anchorage girl killed by her foster mother, were on Governor Knowles' and Commissioner Perdue's watch. How many other children slipped through the cracks? According to the commissioner, 3,000 children had six or more ROH in the last two years. Where was the Department of Law's Susan Webblker, DHSS Commissioner Karen Perdue and the current director of DFYS when these 18,000 ROHs occurred?

Most of the proponents are state employees, or foster/adoptive parents who were called on by the agency or the governor's office to testify. Most of the proponents are paid by the state to care for children in state custody. Proponents are paid non-departmental state employees, state contracted employees or recipients of state grants, departmental front-line caseworkers and supervisors to sit in hearings, 3 hours or more, to testify for this bill. How many ROHs or other state business were put on hold for their testimony?

Some foster parents, foster children, and adoptive parents were paid for their flights to and hotels in Juneau. Other teleconferencing foster parents had their baby-sitters paid, for their testimony as proponents of this bill.

Some foster parents have had threats of retaliation by DFYS for their opposition to this bill. Foster parent licensing would be pulled. Foster children moved or placements not made if the foster parents sign petitions or testify their opposition to this bill. Adopted parents would suffer delays or bad home studies if they opposed this bill. Opponents still out numbered the proponents 4 to 1.

With every bill the department produces and the legislative committee hearing appearances of the department staff and their legal advisors, the department promises "whatever the bill they support or propose will fix the agency, bring DFYS into federal compliance and child protection programs will be enhanced". CSHB 375 does not conform to federal law and will not fix one problem at the department. If this committee allows the department to remain the same, the legislature can expect eight more years of the department fighting the fight. Alaska will see more increases in the number of ROHs and no improvement in the way DHSS or DFYS does business.

In the end, with CSHB375, neither the department nor the agency will be close to being fixed. The families the department deals with will be more at risk from the department. Alaska families will be in the greatest danger of having more intrusions by the department, children removed, parental rights terminated, families and lives destroyed -- all "erring" in the name of "child protection".

Sectional Summary of CSHB375

CRC has many objections to this bill. Our objections are to the point. But to make our point, it will be necessary to cover CSHB375 section by section.

SECTION 1 -- This section is not cohesive with the "legislative intent" of child protection and deletion of this entire section is appropriate. This section is the desire of DHSS and DFYS and have no basis in any federal law or regulation.

Our state was constitutionally designed with separation of powers for sound reasons. Do not overturn judicial decisions for DFYS. The legislature has the only power to change the laws to give greater specificity and legislative intent for the judicial branch to use in their interpretive duties in the future.

CRC asserts that if Department of Law and DFYS through the legislature overturn those court decisions the agency will, at a great expense to the state and the parents/children involved, refile these cases in court to satisfy a whim or to justify the agency's actions after the fact. DFYS is notorious for these types of courtroom appearances just to retaliate against a parent just to prove their point after unfavorable adjudications, or in a sad attempt to prove publicly they are interested in "child protection".

Parts of CSHB375 may, after being amended, address the department's alleged loopholes in Section 1(b) (2) (A-C). DFYS and the Department of Law seem to feel it is within their power as part of the executive branch to force the legislative branch to supersede and overturn the judicial branch's authority to interpret law.

This section of the bill will greatly affect low income families, particularly native and legal aliens. It will also single out families with children under the age of six. CSHB375 deals with the willingness, but inability to provide essential care for the child. We have to consider that "essential care" is a very broad definition. If a parent is poor and can only provide two meals a day, second-hand clothing, and little or no recreational funds are they a "bad" parent?

The "essential" basics also include love, caring, appropriate disciplines, school attendance to provide a safe and healthy environment. If a parent cannot provide the DFYS unwritten and operationally vague "standards of duty" for each child do we remove the child or establish an ongoing case in hopes that one day DFYS may permanently remove the child and terminate parental rights because it is in the financial interest of DFYS? Do we remove the child if a court feels the parent is willing but "unable", financially or through a physical disability, to provide a DFYS definition of "essential care"?

How infinite of a list is DFYS going to compile under administrative code for "emotional" harm? "Emotional" harm will add another broad definition and add to the number of ROHs.

DFYS also considers medical care a part of "essential care". This would include dealing with parent whose child suffers severe physical, mental and medical disabilities. Do we remove children from a home because the parents lack sufficient medical insurance or do not qualify for Medicaid assistance or social security payments for these disabilities. What happens when the parents may provide their definition of basic medical services, but not sufficient to satisfy DFYS's "essential care"?

Where will the state draw the line on "essential care" -- the amounts of money or time a parent spends on each child, the daycare/school the child attends, the doctor the child sees, the extra-curricular family activities. Should DFYS interfere in parental decisions -- church, friends, the television shows/movies watched, the grades a child makes in school. How does DFYS determine "essential care" without a "standard of duty"?

If a parent is incarcerated and arranges with the willing, able, love and care of the other parent, family members or friends to adequately care for their children while they are incarcerated, what right does the state have to interfere with parental responsibility to make such an arrangement? Do we determine what criminal laws a parent can break before they are "bad" parents? Do we terminate the rights of a parent before or after the completion of the appellate process of an incarcerated parent? Do we terminate the rights of a parent based on the sentence, or possible early releases for parole and good behavior, even when the parent makes a responsible decision to leave the child in the care of others?

What if the other parent, family or friends provide frequent, continuing and meaningful contact with the parent while incarcerated? Do we terminate a parent's rights and place the child for adoption in another home, removing the child from a loving and stable environment just because the non-custodial parent is incarcerated and may one day be released or reoffend?

The Alaska courts seem to want the CINA laws to more be specific. The court decisions referred to in this section are asking specifically for directions in law and intent from the legislature.

In CSHB375 DFYS is attempting to place another "federal bounty" on our children's heads. The more parental rights the state can terminate, the more children are available for adoption. The federal government will pay \$4000 to \$6000 per permanent placement or adoption that is in Alaska or other states who participate in the Interstate Compact on Adoption and Medical Assistance program.

The federal government also gives an income tax credit to those families who adopt DFYS children. DFYS will still have a financial interest to remove children under broad statutory definitions, not necessarily the best interests of the child. Parents may be inclined to adopt children because of a "federal bounty". Is a department's or parent's financial interest in the best interest of the child? Never!

If the incarcerated parent is ordered to pay child support before incarceration, by terminating the parental rights, the non-custodial parent would still be required to continue to pay any arrearages for child support under the "Bradley Amendment" or public assistance owed the custodial parent or the state. CSED, DHSS and DFYS would to gain "federal bounty" money three ways.

What wonderful little cash cows the Congress and Alaska's legislature has made out of our children!!!

SECTION 2 – **This section is not cohesive with the "legislative intent" of child protection and deletion of this entire section is appropriate. This Section should be independent of CSHB375. This section is the desires of DHSS and DFYS and have no basis in any federal law or regulation.**

Currently most native for profit or non-profit corporations have a difficult time making agency or court ordered child support payments to CSED. The corporations regularly tell the obligees that the native dividend checks have inadvertently been mailed to the obligor. Most children of natives receive AFDC/ATAP, therefore, the Child Support Enforcement Division has garnishment orders in place and notified the native obligors and native corporations.

Now you want to require native corporations or Permanent Fund officials to establish individual interest bearing savings accounts for CINA in state custody. This section will add an undue burden to the native corporations and the Permanent Fund staff. Additional state employees in DFYS, the Permanent Fund, and Dept. of Revenue will be needed to track and insure the safety of the savings accounts. This section will add a substantial fiscal note to the state's budget.

SECTIONS 3 - 14, 18 & 19 – **These sections are not cohesive with the "legislative intent" of child protection and deletion of these sections is appropriate. These sections should be independent of CSHB375. These sections are the desires of DHSS and DFYS and have no basis in any federal law or regulation.**

All of these sections deal with criminal statutes that could be dealt with under one separate bill. In fact, these sections are in separate bills, SB218, SB282, SB323, and HB333 in one form or another. The sentencing measures in these statutes are still far too lenient for defendants guilty of harming or killing our children, intentionally or negligently. All classes of felonies and misdemeanors should be upgraded, and sentencing guidelines should be severe and unwaiverable.

The state of Alaska should have a zero tolerance in the death of a child 16 years or younger. Deaths of children are egregious, unwanted, and inexcusable for any reason. The legislature needs to develop a new criminal statute section to deal solely with crimes against children. Some states already have begun to make these criminal statute changes.

Life without parole and the death penalty should be mandatory in certain cases of first degree murder.

No sentence of a first felony conviction involving the death of a child, should be less than 30 years in prison. The statutes must also specify that defendants serve 3/4 of the prison term before paroles are possible. Defendants serve their time with no time off for good behavior. The more egregious or vicious a death the child may suffer can presumptively result in higher penalties. The defendant should reimburse the family for funeral arrangements, and long-term family counseling.

No felony that results in the physical or sexual harm of a child should receive a suspended term of imprisonment. The defendant shall serve 3/4 of the sentence before eligible for parole. No defendant will receive time off for good behavior. The defendant should reimburse the family for all medical expenses and long-term family counseling.

Today, parental kidnapping and filings of false allegations of child abuse or neglect and domestic violence is dramatically on the rise. These false allegations are called the Medea complex. Medea was the Greek goddess who sought revenge on her husband who rejected her for a younger woman. Carried away by rage, Medea murdered her children.

Today the custodial parent's rage is usually satisfied by keeping a child from having contact with the other parent. Alaska has over 10,000 children who experience various degrees of custodial interference and parental kidnapping by their custodial parent.

Alaska criminal statutes should also include parental kidnapping and custodial interference clauses against the express agency/court orders for the purpose of hindering the custodial or visitation periods within or outside the state; or interstate flight to avoid frequent and continuing contact with the other parent or judicial hearings for any reason. Parental kidnapping should be a class B felony for any reason.

False allegations of child abuse or neglect should begin as a class C felony for any reason. Custodial interference should be a misdemeanor for the first three convictions and a felony for the fourth. Severe penalty and fines should also accompany the convictions.

Many custodial parents allege child abuse or neglect and domestic violence to seek wrongful or malicious charges just to justify their custodial interference or parental kidnapping. Sophisticated underground networks have sprung up across the nation to assist these parents to violate court/agency orders, to break federal/state laws (falsifying i.d., employment law, kidnapping) and keep their children hidden from or preventing any contact with the other parent

No book, movie, or miniseries, that directly or indirectly implies facts of a specific case that resulted in the death of a child may be negotiated without approval of the victim/s family and a three-judge panel. This would include writers and reporters covering the case, public or private investigators, attorneys, juries, or judges involved directly or indirectly with a specific case. Neither the convicted defendant of murder nor manslaughter, nor the family of the defendant shall negotiate any agreement. All proceeds are payable to the victim/s families in the event the judicial panel agrees to publication/production. No one shall benefit from the death of a child. This one statute alone may reduce the number of glorified and tragic deaths of children. This may also reduce copy-cat or other child murders.

SECTIONS 15 - 17, 63 - 77 -- These sections are not cohesive with the "legislative intent" of child protection and deletion of these sections is appropriate. These sections need to be independent of this bill. These sections are the desires of DHSS AND DFYS and have been misrepresented in their basis in federal law and regulation. These sections are a part of the CAPTA amendments, but can be delayed until June 30, 1999. The citizen review panels are designed for oversight of the department, not volunteer workers for the agency. If this section remains in the bill unaltered, CRC will file a federal non-compliance complaint with Carol Williams, DHHS Commissioner, Administration for Children, Youth and Families, Washington, D.C.

CRC believes a child's physical safety and emotional stability is paramount. A DFYS determination will establish substantial risk to the child. The child will either remain in the home or be removed from the home. Then the department's paramount interest should turn to the civil rights, due process, and constitutional protections of the parent's rights when investigating the allegations. This is the best way to "err" on the side of the child and protect the best interests of the child.

The burden of proof should always be on the department. "Clear and convincing" evidence should be the standard at each stage of investigations and decisions both by the department and court. Through discovery or subpoena, all records, information, caseworker file notes, expert testimony that assisted an employee of the department and, or an inter-agency team member under the direct administration of the department to make a determination, conclusion, recommendation, discussion, or thought process should be admissible in a civil or criminal proceeding.

CAPTA requires no less than three citizen panels to act as departmental oversight "to provide new opportunities for citizens to play an integral role in ensuring that States are meeting their goal of protecting children from abuse and neglect. (Congressional Record - House, pp. H11148-9, September 25, 1996)." Public annual reports are mandated to be filed with the state legislature, and DHHS in Washington. DFYS has failed to adopt such a panel, and is out of compliance with federal mandates. CSHB375 will in no way comply with CAPTA section 106 [42 U.S.C. 5106a].

According to CAPTA Section 106 (c)(4)(A) verbatim, "each (citizen review) panel established ... shall, by examining the policies and procedures of state and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities with the state plan, CPS standards set forth in this section, any other criteria that the panel considers important to ensure the protection of children." Report language clarifies that Congressional intent was to direct states to provide the review panels with reports and information the panel determines necessary and support assistance to carry out these functions (Congressional Record -- House pp. H11149 September 25, 1996).

Properly established, the citizen review panels have the capacity to promote creative problem-solving with involvement of community members who often represent a variety of disciplines. It is recommended that the panel be composed of volunteer members who are broadly representative of the community, and include a balance of members with expertise in the prevention and treatment of child abuse and neglect, who are familiar with the intricacies of the CPS system.

The department fears the federally mandated public citizen's review panels designed in CAPTA. CAPTA and ASFA citizen's review panels are self-directing, with support services, and relevant information and records provided by the department. CAPTA panels do not require meetings closed to the public, except for the time the panel decides to review case-specific information. The public, and especially department clients, should have a forum in which public/client complaints and concerns can be investigated. Under CAPTA, the department will no longer investigate from within nor audit themselves.

CAPTA PL 104-235 is written in English. Surely, an attorney can read and interpret the Congressional intent of CAPTA. However, it seems Ms. Webbiker and Ms. Perdue could not understand the public law language. They could certainly understand the simple Program Instruction sent to all 50 states -- "To: The State Office, Agency, or Organization by the Governor to Apply for a State Child Abuse and Neglect Grant". The citizen review panels are CAPTA mandated and are sorely needed in Alaska's DFYS system. CRC is providing a copy of the 12 page fax from Kathy Admire, CAPTA coordinator, ACF, Region Ten, Seattle, Washington. The fax includes the 6-pages of Program Instruction, that basically defines Congressional and DHHS intent for CAPTA implementation.

Specific multidisciplinary and state child fatality teams are mentioned and described in CAPTA and under ASFA, as inter-agency teams to enhance DFYS investigations. The state child fatality team and multidisciplinary teams designed in CSHB375 are inter-agency investigative teams under direct supervision and direction of the department and made up of "volunteer" caseworkers. Alaska already has a state child fatality team, its called the grand jury. Proposal of these teams is redundant and a duplication of services and functions of many of the suggested members of these teams. The two "secretive" teams do not meet CAPTA or ASFA criteria.

CRC is most concerned with the fact that the state child fatality and multidisciplinary teams should meet in secret, to protect so called "confidentiality". The "secretive" teams that the department refers to in CSHB375 are not citizen review panels. The department teams in CSHB375 are "volunteer" caseworkers as defined in section 15 -17 and 63 - 66. The suggested members of both teams in CSHB375 consist solely of mandated reporters of harm. This causes an imbalance of broad representation from the community.

These "secretive" investigative teams are mainly made up of state or municipal employees, or the employees of state or municipal contractors or to recipients of department grants. The public employee unions will never tolerate these types of "volunteer" caseworkers. This also would develop a financial conflict of interest between many team members, the department, and the courts.

Any DFYS "secretive" team should collect data, analyze and interpret information. The team should develop state and local databases to store the information to identify trends, patterns, risk factors, and fiscal notes. The teams should develop model agency protocols and operating procedures, legislation, and make periodic reports to the legislature and the public, without divulging confidential information. This is all mandated by CAPTA. CRC believes this defines more of a citizen's review panel than a inter-agency team or grand jury.

No state employee or state funded "secretive" investigatory teams should be given immunity in any form or for any reason. We do not give police officers, state troopers, or any other federal law enforcement officers immunity from their decisions or behavior. Selective testimony through acts of omission or inclusion, retaliation, gender-based bias, perjury by a department employee or team member should not be covered under immunity or indemnification.

The department would have you think that these teams will not cost the state any funds. These sections will only add unfunded mandates to communities to pay overtime to personnel involved with these DFYS "secretive" teams as described in AS 47.10.14(b) (1-10). It is unfair for the state to pass down unfunded mandates to local communities, who are already operating with less state funds than three years ago. Most of you, the state legislators, hate when the federal government passes unfunded mandates to the states. Why then should you pass unfunded mandates to the local communities?

Most of the persons listed as DFYS suggested members of these "secretive" teams are public or municipal employees who operate under public employee union or municipal union/employee contracts. This means the state, municipalities, or contractors must pay for employee time on such state-funded advisory teams as part of their normal duties. I know of no police officer, mental health worker, educator, district attorney who will forego their union or municipality mandated overtime.

These untrained CSHB375 multidisciplinary and state child fatality teams, are headed by a department employee and will be used as "volunteer" investigative caseworkers that do the investigations and then make the decisions for front-line caseworkers and their supervisors to reduce caseloads. The assigned DFYS caseworker will take the team's report and offer it as first-hand investigative testimony in CINA cases. The caseworker will decide how the report and the evidence therein, is introduced into hearings.

What is the department trying to hide? If CSHB375 passes, CRC's legal experts believe that the parent or guardian's civil rights to due process are being violated. Members of this "secretive" team are not compelled or allowed to testify, and the records and information that form the basis of the team report are not admissible into court. The reports of a "secretive" team, which are available to the public, but not admissible in a civil or criminal proceeding does not make sense. The department would have you believe that in their employment capacity as an "officer of the court" or mandated reporter, the team member could testify at a hearing.

This section in CSHB375 would not allow the team member's testimony through discovery or subpoena for any reason, especially if the team member was an "officer of the court" or mandated reporter. The department would have you believe that in their employment capacity as an "officer of the court" or mandated reporter, the team member could testify at a hearing. An "officer of the court" or mandated reporter's expert testimony based on exculpatory information, may inadvertently include or exclude, through records or information gathered through team membership and may taint hearing evidence that would violate the accused parent's civil rights. The court, prosecuting and defending counsel, and the defendant should also be made aware that an "officer of the court" or mandated reporter serves on such a "secretive" investigatory team. It is difficult to provide unbiased evidence based on team reports by the testimony of a department or team members that may have a financial or professional interest on the court outcome.

However, an employee of the department may testify in a criminal or civil proceeding concerning the report by a team that forms the basis of the employee's testimony. This does not guarantee the employee will produce the entire report. The department employee may use selected, biased parts of the report as testimony. This section is not specific on this matter. Therefore, by acts of omission, the employee may include or exclude team report data to pre-dispose the case to favor the department's position, or DFYS's desired outcome. Through tainted evidence based on exculpatory information, selective acts of omission, agency retaliation and obstruction of justice will more than likely occur.

Members of the "secretive" team should be compelled to testify in a civil or criminal proceeding. This should particularly cover "secretive" team investigations that had intra-member conflicts with departmental actions or employees, other team members, parts of the records or information reviewed, other evidence or the report as a whole.

Failure to protect parental rights by a "secretive" team or their reports, may result in a DFYS client's civil suit and appeals against the department and that could become an embarrassment to the state and a substantial financial liability nightmare. If the state loses a civil rights case of this kind, or if the state lost a class action suit on obstruction of justice charges or worse, it could be financially devastating to the state.

The legislature should not tolerate poor administration of DHSS and DFYS any longer. You cannot fit even the best pilot programs or laws into departments as bad as Alaska DHSS and DFYS. It will only serve to further erode the department and its ability to effectively protect the children in need of aid. Further department erosion is not in the best interests of Alaska's children.

The Alaska Division of Legislative Audit has recently made its report, March 26, 1998. Basically the audit reported that there were numerous problems at the agency. The audit said with a more and better trained staff, DFYS may reduce the current caseloads. The audit only addressed two central aspects -- how the agency utilized personnel in FY97, and how well the agency is doing in responding to reports of abuse and neglect of children, besides supervising children in state custody. Other aspects of the agency went unaddressed as usual.

DFYS needs to improve what it currently has, before introducing and making major changes. CRC believes that it will take two years, minimum, for the agency, under the current statutes, with more front-line social workers to begin to reduce the caseloads. The legislature should demand that performance-specific changes be instituted immediately. DFYS then needs to set goals and timelines for the improvements and forward them to the legislature.

CRC believes that Commissioner Karen Perdue, is underestimating the department's ability to force DFYS to make major administrative changes, if the legislature provides more funding for additional staff. The department will not be adequately staffed or trained within the next two years. The agency must improve the administrative and supervisory techniques, the collection and analysis of ROH statistics, and front-line caseworker response to reports of harm. The state must remove inconsistent and contradictory statutes, bringing DFYS into federal compliance and mandated state time lines.. It is also difficult to mandate by statute, additional procedures or protocols, into an agency that considers itself untrained, understaffed and underfunded.

Until a more updated, accurate and relevant workload measurement model and a more specific priority system are developed, no amount of staff or funds will work to make a better or more responsive system. It will take two years minimum to show an improved track record in accurate and timely database collection and analysis of child protection figures to identify trends, patterns and risk factors.

SECTIONS 21 - 25 -- These sections are not cohesive with the "legislative Intent" of child protection and deletion of these sections is appropriate. These sections need to be independent of this bill or combined into HB 307, Section 3. These sections are the desires of DHSS AND DFYS and have no basis in any federal law or regulation.

Custody issues involving a marriage or a relationship similar to a marriage really have no place in a "child protection" bill. CRC fully agrees with "rebuttable presumption" in custody hearings. To date 29 states have adopted some form of presumed joint custody, with the assistance of CRC chapters in those states. In presumed joint custody hearings or interim custody decisions the decision-maker shall presume that both parents are equally "good" parents. Frequent, continuing, and meaningful parental contact with the child should be the department or court's first duty to every child.

When invoking a "rebuttable presumption", the clear and convincing evidence standard of proof should apply in all cases where one parent is wanting to have "sole" custody for any reason. The burden in "rebuttable presumption" cases should be on the parent or agency who has requested the presumption. All 29 states are seeing a marked decrease of abuse and neglect due to presumptive joint custody, mandatory divorce education and family mediation programs

It is time that both parents who allow or participate in domestic violence within the home where children live, must bear some responsibility for that violence. In custody cases involving domestic violence, the decision-maker should also consider of how many times the non-offending parent has made complaints to the police, DFYS, or has been in a shelter and the length of the stay/s. The decision-maker should also consider how many times a non-offending parent has returned to the home or failed to file appropriate charges on the offending partner. Finally, has the non-offending parent attended long term domestic violence or parenting classes or family counseling to remove themselves and their children from the circle of violence.

In domestic violence cases, where the non-offending parent is a custodial parent of the children and is divorced/separated or never married to the non-custodial parent, the decision-maker should notify the non-custodial parent. The decision-maker should be mandated to an emergency change of custody if the case, by clear and convincing evidence, determines that domestic violence is occurring in the non-offending parent's home and shall make the appropriate report to DFYS for investigation.

The Child Abuse and Protection Act revisions of 1996 (CAPTA) also federally mandated that states establish procedures and penalties for those persons filing false allegations of abuse or neglect for any reason. Alaska DFYS has yet to comply with this federal mandate. All states who have protocols in place to investigate and penalize persons who make false allegations are seeing a marked decrease in false allegations of abuse and neglect.

Special block grant funds for access and visitation were passed in the Welfare Reform Act 1996 to be used for neutral drop-off centers. These centers offer after-hour supervised areas for parents who have restricted visits and who are unable to take time off work during the day to conform to DFYS office hours. The centers also offer a safe place, where parents of domestic violence, or parents who fail to cooperate in visitation orders can leave children for the non-custodial parent to pick-up or have visitations in safety and without confrontations.

Glenda Straube, Director of CSED was the governor's appointed person to direct the funding of these special block grants. CRC and several legislators have been unable to determine who succeeded Ms. Straube upon her leaving, and where the funds are or their use.

SECTION 27-- This section is not cohesive with the "legislative intent" of child protection and deletion of this entire section is appropriate. However, this section will not be remembered when it comes to the many daily decisions that DHSS or DFYS employees make. This section is the legislative intent perpetrated by the governor, DHSS and DFYS and have no basis in any federal law or regulation. This section is based on a United Nation's "child protection" treaty. President Bill Clinton signed the "Bill of Rights for Children" several years ago. The treaty failed ratification in the US Senate 73-27. However, The President felt so strong about the "Bill of Rights for Children" he ordered the treaty be sent down through minor Congressional legislation and regulatory fiat for implementation. DHSS attached many government grants to these pieces of legislation in order to gain passage.

DFYS should be required by state law to develop and provide a "standard of duty" to every child and parent when DFYS decides to intrude into a family and forces DFYS's changes in the name of "best interest of the children". The department fears the development of any standard of duty, because of the financial interest of the department.

DFYS broadly interprets legislative intent when the agency is required by law or regulation to provide necessary support services to parents to prevent a child's removal or whose child is in state custody. On the other hand, the agency narrowly defines terms in dealing with parental responsibility -- reasonable or necessary efforts; essential, appropriate, or adequate care, and willingness and ability.

A CINA section needs to be added that ensures parental civil rights, due process, constitutional guarantees of protection from false or malicious persecution, fair and swift adjudication, and exoneration if the allegations are found to be unsubstantiated, invalid or false. A section with severe penalties for filing false allegations of abuse or neglect in attempt to malign the character of the other parent or sways a judicial decision is covered under the Child Abuse and Protection Act of 1996 should also be included.

The department should develop proven "certified" programs such as long-term domestic violence courses, divorce education, parenting classes, and family mediation/arbitration.

Sections 20 & 28 - 62 -- This section is not cohesive with the "legislative intent" of child protection. These sections can remain in this bill. Section 28 & part of section 45 are the only new federal mandates. Sections 29 - 57 will also have to pass by a two-thirds majority of each house of the legislature, to become effective.

CRC believes that the legislature should review the Adoption and Safe Family Act of 1997. The department and their legal advisors have misrepresented CSHB375 to the legislators by implying directly or indirectly that the original HB375 is federally mandated.


CRC believes that the legislature should review any federal Act that mandates changes in state laws or regulations that affect the family, its members or functions. The legislature should also question the financial interest of the agency, when the federal government rewards CPS departments "federal bounty", through grants or fees based on performance or changes that directly affect any family unity.

These sections need a great deal of review and adjustment to provide a greater degree of specificity and to promote the intent of the legislature. Using words such as essential, reasonable efforts, minimal efforts require more tangible definitions to reduce broad interpretation by the agency or the courts. These definitions need a more specific definition than are provided in current law or in the proposed statutes in CSHB375. Most parts of sections 29-57 are not attributable Adoption and Safe Families Act of 1997.

SECTION 80 - 83 -- These sections are not cohesive with the "legislative intent" of child protection. These sections must remain in this bill. However, sections 29 - 57 will have to pass by a two-thirds majority of each house of the legislature, to become effective. Therefore, these sections are required to amend the Alaska Rules of Appellate Procedures, and Alaska Child In Need of Aid Rules. These rules require a two-thirds majority vote of each house to adopt these sections.

This concludes my testimony. Thank you for your cooperation and consideration of CRC's testimony.

Sincerely,



Diana L. Buffington

**President and State Coordinator, The Children's Right Council of Alaska
Chairman, Alaska Task Force on Family Law Reform 1995 - 1997**

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Audit Report

**DEPARTMENT OF HEALTH AND SOCIAL
SERVICES, DIVISION OF FAMILY AND
YOUTH SERVICES, SELECTED CHILD
PROTECTION ISSUES**

March 26, 1998



Audit Control Number:

06-4586-98

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

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March 26, 1998

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES
SELECTED CHILD PROTECTION ISSUES

March 26, 1998

Audit Control Number

06-4586-98

This report summarizes our review of various operational aspects of the Division of Family and Youth Services. Two central aspects of our review were how the agency utilized personnel in FY 97, and how well the agency is doing in responding to reports of abuse and neglect of children, in addition to supervising children in state custody.

This audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section.

Handwritten signature of Pat Davidson.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 of the Alaska Statutes and a special request by the Legislative Budget and Audit Committee, we conducted a review of various aspects of management and casework related to the child protective services function within the Division of Family and Youth Services (DFYS), which is organizationally located in the Department of Health and Social Services (DHSS).

Objectives

1. To evaluate how effectively DFYS management utilized FY 97 personal services appropriations in maintaining agency staffing levels to adequately address and respond to reports of abuse and neglect received by the agency.
2. To evaluate how effectively and consistently DFYS met timelines, established either in statute or the agency's internal policy and procedures in investigating and responding to reports of child abuse or neglect.
3. To identify the factors and circumstances, if any, which inhibit DFYS' ability to effectively respond to reports of child abuse and neglect.
4. To identify the degree to which DFYS is unable to respond to reports of harm, how DFYS manages these reports, and evaluate the effect of not responding may have on child safety.
5. To assess the impact of recent changes in federal law and proposed state legislation on the State's child protection system.

Scope

Our audit focused primarily on determining the effectiveness of DFYS' investigative practices. Most of our analysis is based upon data related to operations of FY 97. Our fieldwork reviewed casework operations across the state.

Our scope was hindered to a limited degree by the unreliability of DFYS' management information system, which compiles child protection data. These limitations existed primarily due to inconsistent and untimely data entry practices across the State. Where we could not rely on the data, we developed alternative audit techniques to confirm the information that served as a basis of our observations and conclusions. The deficiencies of DFYS' management information system are addressed in Recommendation No. 7.

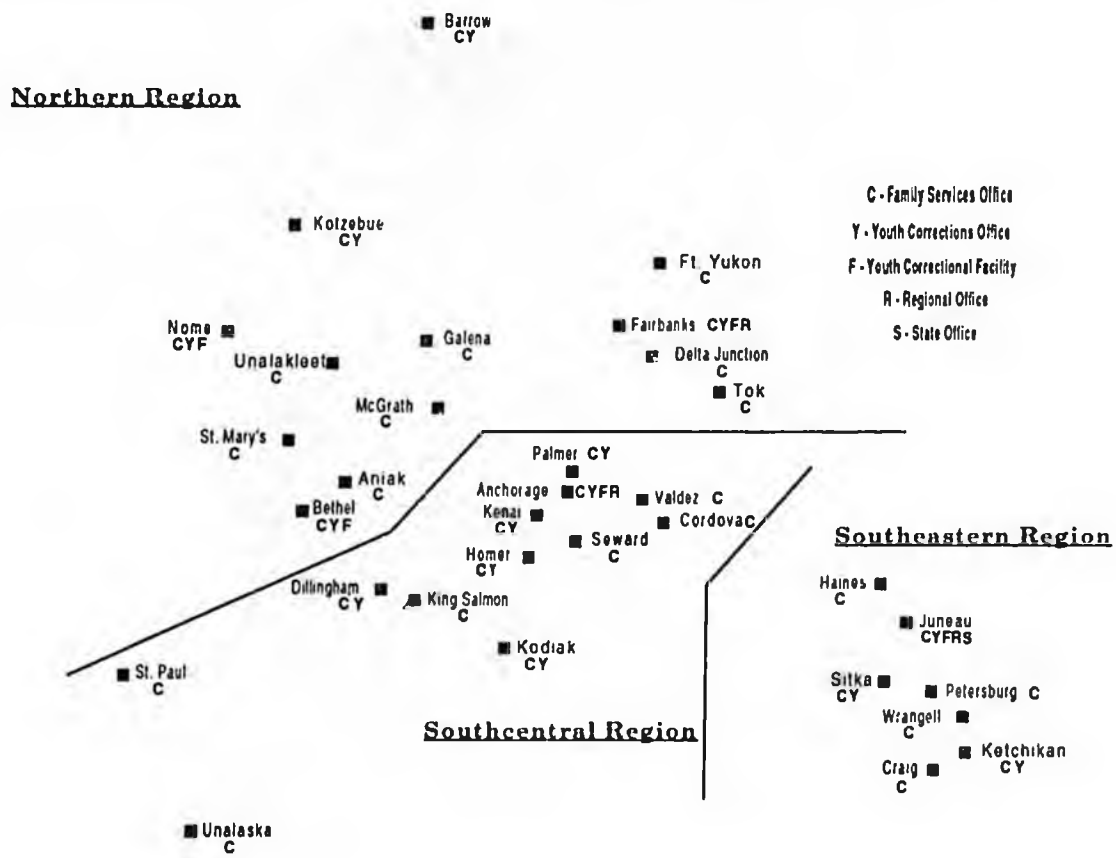
Methodology

Significant methodologies applied in this audit include the following:

1. Interviews of DFYS child protection staff across the State including investigators, supervisors, and regional managers.
2. Review reports on Alaska's child protection system including the following:
 - *Administrative Review of the Anchorage Family and Youth Services Office*, April 1996.
 - Alaska Judicial Council, *Improving the Court Process for Alaska's Children in Need of Aid*, October 1996.
 - *Anchorage Family and Youth Services Records Review*, November 5, 1996.
 - *Child Fatality Review and Response*, May 27, 1997.
 - *Statewide Case Record Review, Multiple Reports of Harm*, August 1997.
 - *Report by the Review Panel, A review of five child protection cases from the state of Alaska*, December 1, 1997. (a.k.a. Kempe Center Report)
 - *Child Protection Review Team, Report to Governor Knowles*, December 11, 1997.
 - *Protecting Alaska's Children From Neglect: The Appropriate Legislative Response, Alaska Law Review - Volume 14*.
3. Review of other child protection system reports including:
 - State audit reports from Washington, Kansas, Arizona, and Minnesota.
 - Various publications from the Child Welfare League of America.
4. Analysis of the use of amounts appropriated for DFYS personal services in FY 97 using agency budgets and state payroll information.
5. Random sample review of 712 reports of harm received by five DFYS offices across the State during FY 97. This review included 412 investigated reports and 300 uninvestigated reports. We reviewed reports received in the Anchorage, Fairbanks, Bethel, Kenai, Mat-Su, and Juneau DFYS offices.
6. Job-shadowed social workers responding to reports of harm in Anchorage, Fairbanks, Bethel, and Mat-Su.

7. Interviewed individuals outside DHSS including employees of the Department of Law, University of Alaska, and Alaskan residents concerned about the State's child protection system.
8. Performed a review of various aspects of the legal system and its affects on the State's child protection system. Our review included obtaining an understanding of current state and federal laws, the impact of recent Alaska Supreme Court decisions, recent changes to federal law (the Adoption and Safe Families Act of 1997), and proposed changes to state law (HB 375 and SB 272).

Department of Health and Social Services Division of Family and Youth Services Offices



ORGANIZATION AND FUNCTION

Title 47 of the Alaska Statutes charges the Department of Health and Social Services with responsibility for providing a range of services designed to remedy or prevent abuse, neglect, and exploitation of children and youth. To meet these statutory responsibilities, the department created the Division of Family and Youth Services (DFYS) in 1980 by combining the Division of Social Services with the youth section of the Division of Corrections.

The Family Services section of DFYS is responsible for providing child protection and welfare services, licensing of child care facilities, and the recruitment, selection, and training of foster parents. The other major section of DFYS, Youth Corrections or Youth Services is responsible for supervising adjudicated youth offenders.

The focus of this audit was Family Services. Specifically, the audit concentrated on child protective services (CPS). The goal of CPS is to identify, treat, and prevent child abuse and neglect, as well as to ensure reasonable efforts are made to protect and maintain children in their own homes. DFYS provides protective services for children by investigating reports of harm, referring families to community resources, initiating legal intervention if children are unable to remain safely in their own homes, and providing out-of-home placements and permanency planning when necessary.

When a child is taken into physical custody they are placed either in foster care, or perhaps in an emergency shelter facility. DFYS also contracts with residential care facilities to provide assorted levels of care and treatment of youth.

Each provider is subjected to licensure and periodic review to assure children are provided with reasonable care in a safe environment. Responding to complaints of abuse and neglect for children in out-of-home care is also the responsibility of DFYS social and licensing workers.

In 1991, the Hickel administration comprehensively reorganized DFYS. A central aspect of the reorganization was the realignment of management within the agency's Family Services and Youth Corrections sections. The Family Services section was scaled down (from five) to three regions: Southeast, Southcentral, and Northern. Under the reorganized structure, regional administrators were responsible for both Family Services and Youth Corrections operations within their particular region. The administrator for each region, headquartered in Juneau, Anchorage, and Fairbanks, respectively, currently reports directly to the division director. The map on page 4 shows the various DFYS offices around the State.

According to the agency's FY 99 budget documents, the three DFYS regions had 328 permanent, full-time authorized positions during FY 97. Including Central Office and Youth Facility Services, DFYS had 570 permanent, full-time authorized positions. During that same period, DFYS' three regions had a combined operating appropriation in excess of \$22 million. The total DFYS operating appropriations were \$69.8 million, which included the three regions, Central Office, Purchased Services, and Youth Facility Services.

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BACKGROUND INFORMATION

The purpose of Child Protective Services is to identify, treat, and prevent child abuse and neglect, through provision of services to children and families. Child Protective Services staff most often become aware of suspected child abuse or neglect from persons referred to as reporters.

Reporters may be concerned individuals in the general public, or mandatory reporters. Mandatory reporters, as defined under AS 47.17.020, are persons who, in the performance of their occupational duties, have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect.

The screener receives information on potential harm to a child

The screening phase involves receiving information of potential harm to a child and determining whether to initiate an investigation.¹ Screening involves ascertaining the current status of the child, the potential for immediate and/or future danger, and the location of the child and parents. The screener elicits additional information about the alleged victim and the family in order to most accurately assess the degree of risk to the child.

Additional information helpful for the screening assessment includes: prior history with child protection, substance use or abuse by parents or caregivers, domestic violence, history of concerns, and family strengths and resources. Although the screener may be able to determine the need and immediacy of intervention on the basis of a brief contact with one reporter, it may also be necessary to contact several collateral sources to acquire the needed information. If the report of harm does not meet the criteria for investigation, the case is closed.

Reports of harm meeting criteria for investigation are assigned a priority level and moved into the investigation stage. DFYS has three priority levels (see page 8) with three different response times. Those reports determined to be priority 1 must be responded to within 24 hours from the time the report is received; priority 2 must be responded to within 72 hours, and priority 3 within 7 days.

The figure on page 10 summarizes the screening and intake process and illustrates how the two aspects of screening and investigation fit together.

¹ AS 47.17.030 (a) requires DFYS to investigate all reports of harm. The statute reads as follows:

If a child, concerning whom a report of harm is made, is believed to reside within the boundaries of a local government exercising health functions for the area in which the child is believed to reside, the department may, upon receipt of the report, refer the matter to the appropriate health or social services agency of that local government. For cases not referred to an agency of a local government, the department shall, for each report received, investigate and take action, in accordance with law, that may be necessary to prevent further harm to the child or to ensure the proper care and protection of the child. [Emphasis added]

P1 Assigned to all cases presenting the greatest degree of risk to the child, and requiring an emergency response.

P1 must be responded to within 24 hours.

Priority One (P1)

Death	Abandonment
Brain Damage, Skull Fracture	Failure to Thrive
Subdural Hematoma	Burns, Scalding
Internal Injuries	Wounds
Malnutrition	Bone Fractures
Torture	Venereal Disease
Sexual Exploitation or Molestation	
Lack of Supervision (no caretaker and young child)	

Report of Harm Prioritization

P2 Assigned to all reports which present a lesser degree of risk to the child. Priority 2 designations indicate that while the situation is serious, information available does not indicate the child is in immediate danger.

P2 must be responded to within 72 hours.

Priority Two (P2)

Cuts/Bruises/Welts
Human Bites
Sprains/Dislocations
Tying/Close Confinement
Drug/Alcohol Abuse
Medical Neglect
Excessive Corporal Punishment

P3 Assigned to those referrals which indicate that a delay in responding to the situation will not result in significant additional harm.

P3 must be responded to within seven calendar days from receipt of the report.

Priority Three (P3)

Other Abuse
Inadequate Food (older child)
Inadequate Shelter
Inadequate Clothes
Educational Neglect
Other Neglect (older child)
Emotional Abuse (no observable manifestations)

Source: Child Protective Services Manual, 1998 version.

The DFYS investigator gathers information about the alleged abuse or neglect

The investigation phase involves gathering information about a particular incident or history of incidents with the goal of protecting the child from harm or further harm. In the course of an investigation, the social worker must consider factors that may indicate that risk exists beyond the immediate allegations. Such risk factors include chemical dependency, domestic violence, and if the parents or caretakers were victims of abuse or neglect as children. Social workers are also directed to consider family strengths and resources that can be coordinated to reduce the risk to the child. Such factors include the presence of responsible extended family, neighbors and friends of the family involved, and other potential support structures. The various reports of harm discussed on page 12, which were taken from the sample of reports of harm (ROH) reviewed, illustrate the variety of circumstances DFYS screeners and investigators must address.

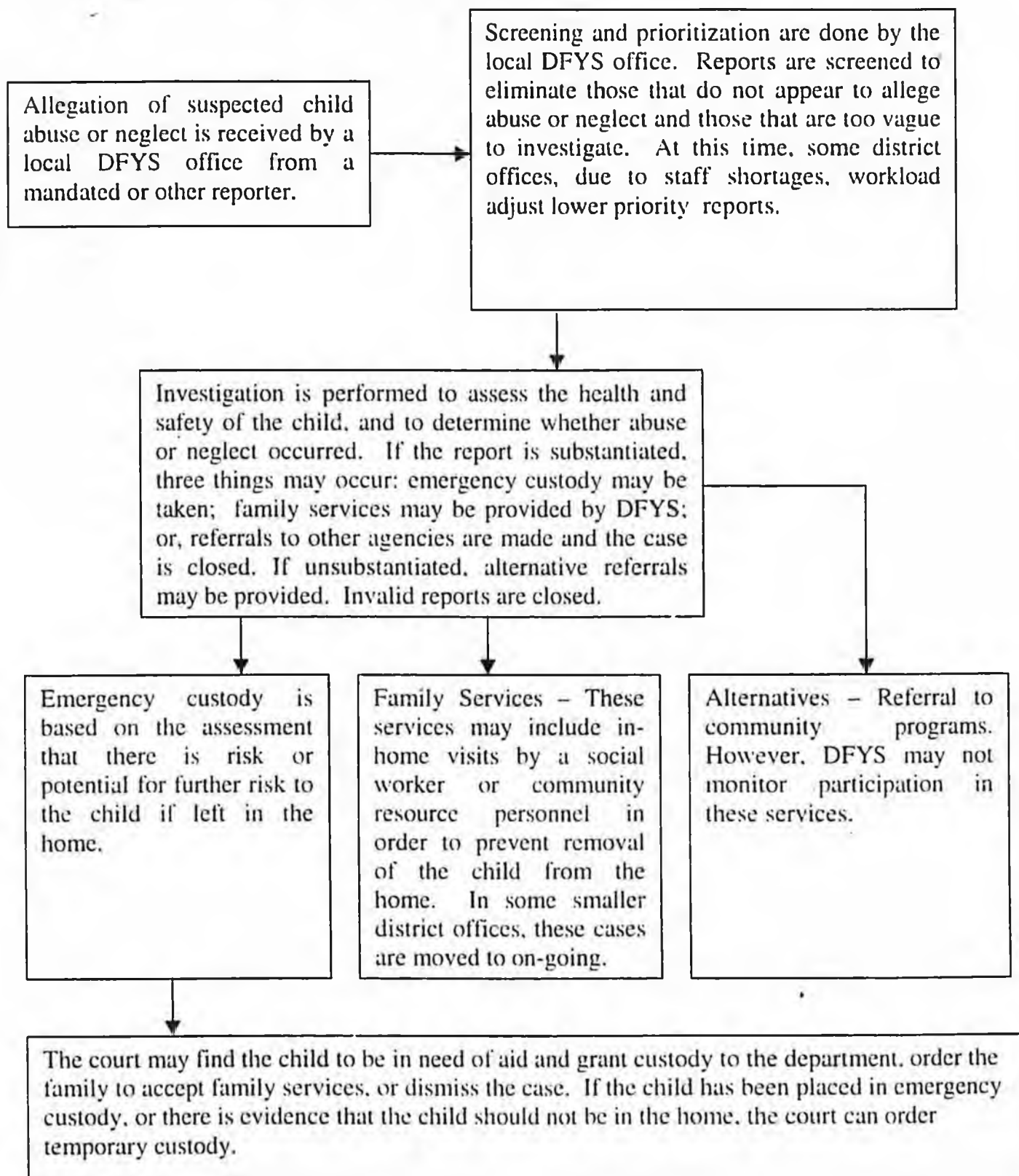
Social workers often have to coordinate interviews with law enforcement agencies to ensure, when both agencies are mandated to respond, trauma to the child is minimized. Regardless of other agency involvement, the social worker retains final responsibility for the direction and resolution of the investigation.

The investigating social worker also prepares a risk assessment. The risk assessment involves a review of the level of danger to the child. Social workers use the facts gained in the investigation, along with the circumstances in a report of harm, to complete the risk assessment tool (RAT). The RAT is intended to measure and quantify the degree of risk for each case. RAT scores determine service level, which in turn dictates the minimum required services to a family. The purpose of these services, which can include family support and referral activities, is to protect the child and to alleviate the risk which originally led to DFYS intervention.

Investigations will be concluded with a finding on the allegation

Investigations will be concluded with a finding on the allegation. Findings are substantiated, unconfirmed, or invalid. If a finding is substantiated, it is determined that the child suffered harm or faces risk of harm as a result of abuse or neglect. If a finding is classified as unconfirmed, the investigator cannot determine whether the child suffered harm through the action or inaction of caretakers. A social worker may make an invalid finding when there are no facts to support the allegation. When a referral is determined to be invalid, the case is closed. When a referral is unconfirmed or substantiated, the situation will be assessed by analyzing the outcome and service level (as determined by the RAT). The investigation will then be terminated by either closing the case or transferring the case to the ongoing caseload (see flowchart on next page).

The Screening and Investigation Process



DFYS social workers provide ongoing services to children and families

Whenever a decision is made to maintain a case open beyond the investigation phase, ongoing services will be provided to the family. At a minimum, ongoing cases represent those cases in which DFYS is legally required to be involved. However, cases in some offices will remain open when it is probable DFYS will take custody of the children if the family does not follow the case plan.

It is the agency's policy is to make reasonable efforts to maintain children in their own home. However, if conditions are unsafe for the child, then removal is warranted. From that point forward, casework services are directed toward permanency for the child, and when possible, through family reunification.

The minimum casework service levels to be provided to the child and family is determined by the family's score (low, medium, high) on the RAT, their location to the DFYS office involved (local or remote), and the progress shown by the family since the initial classification. Changes in service level can be made only after a service level review has occurred. Service level standards represent a minimum level of service to be provided to a family. Certain cases will require higher levels of contact, as determined by risk to the children, client need, and good social work practice.

RAT Level	Service Level Requirements
LOCAL HIGH	Four face-to-face family contacts per <i>month</i> (two of which may be by a collaborative ²). Plus one face-to-face contact with child(ren) individually, if age appropriate, by social worker per <i>month</i> . Social worker must make one of the family contacts in the home.
REMOTE HIGH	One face-to-family contact by social worker in home with family per <i>month</i> . Plus one face-to-face with child(ren) individually, if age appropriate, by social worker per <i>month</i> . Worker must arrange three collaborative contacts per month.
LOCAL MEDIUM	Two face-to-face family contacts with family per <i>month</i> (one of which may be by a collaborative). Plus one face-to-face with child individually, if age appropriate by social worker per <i>month</i> . Social worker must make one of the family contacts in the home.
REMOTE MEDIUM	One face-to-face family contact by social worker in home per <i>quarter</i> . Plus one face-to-face with child(ren) individually per <i>quarter</i> in home. Worker must arrange two collaborative contacts per <i>month</i> .
LOCAL LOW	One face-to-face family contact by social worker in home per <i>quarter</i> . Plus one face-to-face with child(ren) individually, if age appropriate, by social worker per <i>quarter</i> .
REMOTE LOW	One face-to-face family contact by collaborative in home per <i>quarter</i> . Plus one face-to-face with child(ren) individually, if age appropriate, by collaborative per <i>quarter</i> . One face-to-face with family <i>every six months</i> by DFYS.

² Collaborative contact is a contact by a secondary service provider who is involved in the development and implementation of the case plan. If the worker does not designate a collaborative contact worker, all contacts must be made by the social worker.

Sample of Assigned Reports of Harm Received by DFYS

Case One: Paternal grandmother reported that stepmother's long fingernails scratch grandchild (age 11) when stepmother grabs grandchild. Also stepmother has emptied old cat litter into grandchild's bed and made grandchild sleep in it for a week when grandchild forgot to empty litter box. Parents forced other grandchild (age 10) to eat his own vomit. Case assigned as priority 2, investigated, and closed as unconfirmed.

Case Two: Anonymous reporter states that father is under the influence of alcohol or dope. Father has hit the kids (two children under 5) with a flashlight and yelled at kids. Another female in the home is using drugs. Children are inside courtyard (gated area) but parent is not watching them. Neighbors are watching kids according to caller. Case assigned as priority 2, investigated, and closed as unconfirmed.

Case Three: Neighbor reported that parents and children are often heard screaming and hollering at each other as well as someone is being beat and put into the closet (possibly 6 year-old male). This minor has been heard screaming at his parents to stop drinking. Case assigned as priority 2, investigated, and closed as unconfirmed.

Case Four: Counselor at school reported that 14 year-old child was out for two days and when the child returned to school, was hung over. Child told counselor she had been drinking with her mother. Case assigned as priority 2, investigated, and closed as unconfirmed.

Case Five: Anonymous report that teen mom may be neglecting 9 month-old baby. Baby is taken out with mom all night while mom parties. Case assigned as priority 2, investigated, and closed as invalid.

Case Six: Anonymous report that 9 year-old female is left alone after school hours while mother and father neglect her. The child seems to find her own place to stay without the parents making arrangements. Parent's priority seems to be alcohol and bingo. Parents do not make a safe plan for the child after school. The child is not fed regularly. The house is unfit and filthy. Possibly past sexual abuse. Nonspecific concern that the father or older brother may have sexually abused 9 year-old. Case assigned as priority 2, investigated, and unconfirmed.

Case Seven: Medical doctor reports concerns regarding sexual abuse of a 2 year-old girl by father. Mother alleges that her daughter has been using her finger to penetrate herself sexually. Minor alleges that "daddy hurt me." Case assigned as priority 2, investigated, and unconfirmed.

Case Eight: Neighbor called concerning neglect of four siblings. Reportedly the mother leaves her children unsupervised with their 13 year-old brother who is out of control. The 13 year-old has been sexually acting out, assaultive physically as well as verbally to anyone who challenges him with any sense of authority. A neighbor and her two children were assaulted by him, another child was shot in her face with a toy gun, and another child was beat with a broom stick handle. The mother leaves every night and does not return until morning on a regular basis. Case assigned as priority 1, investigated, and unconfirmed.

Case Nine: Police call to report they've taken four children (ages 2-13) into custody because they are unsupervised. Research of the database shows many previous neglect reports on this family. Case is assigned as priority 1, investigated and substantiated. The Assistant Attorney General advises that the history and the latest incident is not enough to gain temporary custody.

Case Ten: Women's shelter calls to report that an 8 year-old child has disclosed sexual abuse by mom's boyfriend. Mom and child are currently living at the shelter because the boyfriend is also violent. Case is assigned as priority 3 (because the child is no longer in contact with the boyfriend) and investigated, but unconfirmed.

In-home, ongoing services address problems that impair the ability of the family to function at a minimally sufficient level. The social worker may enable the parents to remain in charge of their children while periodically assessing whether in-home services are adequate to assure protection of the child. The social worker often utilizes community resources and extended family resources.

Out-of-home services provide structured, time-limited rehabilitation programs for parents to help reunite families as quickly as possible. These services often include planned, regular visitation between parents and child.

In some cases, reunification is not possible. Some parents cannot or will not provide security, affection, and continued care for the child. If reunification efforts have failed, an alternative placement plan must be developed and promptly implemented. Permanency planning choices include long-term foster care, guardianship, and adoption.

The screening, investigations, and ongoing services described on page 10 reflect the agency's child protective services (CPS) manual descriptions of the processes associated with each of those units. These processes were designed under the assumption that the agency would be adequately staffed to carry out the policies and practices outlined in the CPS manual. However, increasing workloads and relatively steady funding levels have reduced DFYS' ability to respond in accordance with CPS manual standard. The agency has developed several strategies to deal with the discrepancies between caseload and resources. Among these is a case prioritization method referred to as workload adjusting.

Original workload adjustments based on workload accounting system and case prioritization

During the mid 1980s, DFYS experienced a steady increase in the demand for child protective services, which resulted in high caseloads. In an effort to *"identify and provide services to those clients with the greatest need and to most effectively allocate resources to enhance service provision to those clients,"* the agency developed a case management system. The case management system included a workload accounting system. This system, intended as a tool for managers to better evaluate caseload distribution among their workers, consists of time standards for each area of the intake³ and ongoing casework process. These standards are based on the results of a DFYS time study conducted in 1989.

DFYS managers have unanimously commented that the hours applied in the workload accounting system significantly understate actual hours required to do the job. Managers attribute this understatement largely to a lack of awareness on the part of social workers regarding the precepts of the study. Because the implications of failing to accurately track the hours required for each task were not emphasized when social workers were assigned these tracking duties, the resultant study was haphazard at best. Furthermore, managers do not believe CPS standards were followed during the time study.

³ The term intake covers different components of case work depending on the size of the DFYS office processing the ROH. In the Anchorage district office the intake function consists of two separate and distinct components—screening and investigations. In other smaller offices, intake covers both screening and investigations with little distinction.

When a memorandum publishing the results of the study was issued in 1989, it was clear that the division was unable to meet the minimum standards of contact with clients or investigate all reports, even with required hours measured by understated time standards. The memorandum describes the problem:

In most work sites, Division employees are faced with the prospect of having a system which defines clients with the highest risk but due to chronic understaffing, are unable to meet with those clients on even the most minimum scale. This results in situations where the quality of service to all clients is diminished. The purpose of [workload adjusting] is to address this systemic deficiency and allow workers to provide enhanced services to those clients at the highest risk of continued harm.

The memorandum goes on to describe situations in which cases may either be closed (for ongoing units) or not investigated (for intake units). The decision to workload adjust investigations was to be based on the workload accounting report. Workload adjusting could take place only in offices where the workload for investigators was above 1.05, a calculation of the ratio of available hours to required hours. Only reports of harm rated as priority 3 were to be eligible for workload adjustment. Additionally, if a third priority 3 report was received for a family that had not been investigated, due to the prior reports, the referral would automatically receive a priority 2 rating and be investigated within priority 2 timelines. Reports of harm not investigated were to be logged and investigated at a later date, when the workload dropped below a 1.05 ratio. All workload adjustments, whether for intake or ongoing services, were to be recorded on a work adjustment report and submitted on a monthly basis to the regional manager.

In the years since the workload adjustment policy was developed, the systematic approach to prioritizing caseloads has deteriorated. Essentially the systematic approach to prioritizing caseloads has been abandoned due to the dramatic increase in reports of harm since 1989 (see chart on page 18). Workload adjusting priority 3 reports has become standard for most offices. In general, intake supervisors make these adjustments with little or no attention to standardized workload reports. Furthermore, where the initial workload adjusting theory was designed only to delay an investigation, currently most workload adjusted ROHs will never be investigated.

New federal law promotes limiting time children may be kept in out-of-home care

On November 19, 1997 the president signed into law the Adoption and Safe Families Act of 1997. The primary focus of this law is to improve the safety of children, promote adoption and other permanent homes for children who need them, and support families. The new law made numerous changes and clarified a wide range of federal policies that had been in place since the 1980 Adoption Assistance and Child Welfare Act. The new law provides for the following:

1. Set-aside funding is provided for continuing support of Court Improvement Program. - The Alaska Court System (ACS) continues its efforts at streamlining and promoting consistency in the adjudication of child-in-need-of-aid (CINA) cases through funding

from this program. ACS had received funding to review how it handled CINA hearings in various jurisdictions and issued a 1996 report that identified many significant areas of difference and made numerous recommendations for improvements.

2. Adoption Incentive Payments provided for states. – The legislation provides \$20 million in federal fiscal years 1999 through 2003 for payments to eligible states which exceed the average number of adoptions the state completed between 1995 and 1997. Essentially the program provides for paying states a bonus for each foster child adopted.
3. New time line and basis for filing for termination of parental rights. – Previously, federal law did not require states to initiate termination of parental rights proceedings based only on a child's length of stay in foster care. Under the new law, states must file a petition to terminate parental rights on behalf of any child, regardless of age, who has been in foster care for 15 out of the most recent 22 months. For children already in foster care, states are required to phase in the filing of termination petitions beginning with children for whom the permanency plan is adoption or have been in care the longest.
4. New, shorter time frame for permanency hearings. – Former federal law required a disposition hearing within 18 months of a child's placement into out-of-home care. The new law establishes a permanency planning hearing for children in care to occur within 12 months of a child's entry into care. At the hearing, the law requires a determination be made whether and when: (1) the child will be returned home; (2) the child will be placed for adoption and a termination of parental rights filed; (3) the child will be referred for legal guardianship; or, (4) another planned permanent living arrangement is made if other options are not appropriate.
5. Further definition of "reasonable efforts" to reunite families. – As required by the 1980 law, States must continue to make reasonable efforts to preserve and reunify families. However, currently the "reasonable efforts" requirement does not specifically apply in cases in which a court has found:
 - The parent has subjected the child to "aggravated circumstance" as defined in state law (including, but not limited to abandonment, torture, chronic abuse, and sexual abuse).
 - The parent has committed murder or voluntary manslaughter or aided or abetted, attempted, conspired or solicited to commit such a murder or manslaughter of another child of the parent.
 - The parent has committed felony assault that results in serious bodily injury to the child or another one of their children.
 - The parental rights of the parent to a sibling have been involuntarily terminated.

6. Access for foster parents, pre-adoptive parents, and relative caretakers to court reviews along with an opportunity to speak. – Under the new law a foster parent, any pre-adoptive parent, or relative caring for a child must be given notice of and an opportunity to be heard in any review or hearing involving the child.
7. Established outcome measures. – The U.S. Department of Health and Human Services will develop, in consultation with governors, state legislatures, state and local public officials, and child welfare advocates, a set of outcome measures to be used to assess the performance of states in operating child protection and child welfare programs. Also to be developed is a system for rating the performance of states with respect to the outcome measures.

In many respects it is this new federal law, in addition to the recent Alaska Supreme Court decisions, and recent casework setbacks, which has contributed to the administration seeking a substantial revision to the State's CINA statutes. As with most federal legislation, the State has both "stick" and "carrot" incentives to conform with the law. Perhaps most significant is the prospect of losing federal funding (some \$10 million in FY 97) used to support various aspects of child protection services in the State.

REPORT CONCLUSIONS

Personnel and Caseload

A central issue of our review involved the utilization of resources. The request for the review was prompted in large part by a request for increased funding. The legislature expected to receive such a request for expanded funding in order that the Department of Health and Social Services' (DHSS) Division of Family and Youth Services (DFYS) could be more responsive to the reports of abuse and harm to children. In various reviews conducted of DFYS in recent months, which grew out of tragic child deaths in the fall of 1997 and winter of 1998, the lack of necessary personnel resources was a common theme.

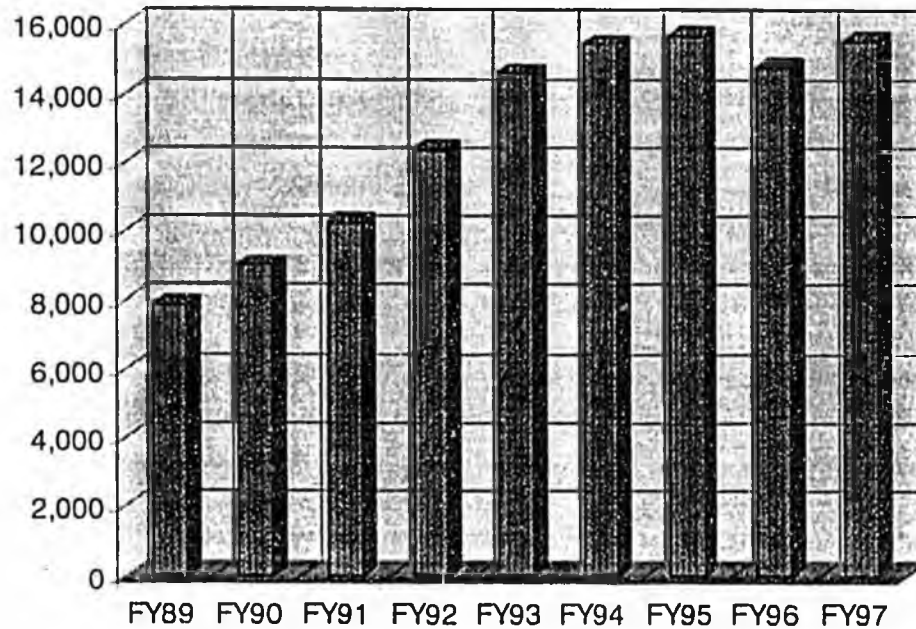
As shown on the graph on page 18, DFYS has, in recent years, faced a growing caseload. This growth has limited DFYS' ability to carry out investigations within the guidelines required by the agency's child protective services (CPS) manual. Specifically, not all reports are investigated. Of those reports that are assigned, many investigations are not begun on time. Though DFYS is currently unable to comply with CPS manual standards, the prioritization of reports of harm reflect the agency's efforts to use limited resources to best protect the children most at risk.

In FY 97 DFYS could not investigate more than 3,700 reports of harm within its jurisdiction

DFYS is required to take and investigate all calls from the public regarding suspected child abuse and neglect. These calls are referred to as reports of harm (ROH). Alaska Statute 47.17.030(a) requires DFYS to respond to every ROH. The statute requires in part that the agency ". . . for each report received, investigate and take action in accordance with law, that may be necessary to prevent further harm to the child or to ensure the proper care and protection of the child."

DFYS' FY 99 budget documents state, that due to lack of resources, the agency was unable to respond to more than 5,000 reports of harm (ROH) during FY 97. This total represents some ROHs which would not typically be responded to, regardless of availability of staff. Over 1,200 of these reports represent complaints that contain either insufficient information on which DFYS could act, or represent situations that are beyond the agency's jurisdiction. The table on the next page summarizes ROHs, both assigned and uninvestigated, by various DFYS offices statewide

Reports of Harm



The graph above illustrates the increasing trend in total referrals regarding child abuse and neglect made to the agency. Fortunately, it has not currently been increasing at rates experienced during the early years of the graph.

FY 97 Screening Outcome of all Reports of Harm ⁴					
District Office	Total Reports of Harm	Assigned for Investigation		Not Assigned for Investigation (Workload Adjusted)	
		Number	Percentage	Number	Percentage
Anchorage	5,725	5,090	89%	589	10%
Mat-Su	1,052	343	33%	707	67%
Kenai	881	669	76%	155	18%
Fairbanks	2,534	990	39%	1,403	55%
Bethel	1,361	668	49%	482	35%
Juneau	752	393	52%	182	24%
All Others	<u>3,242</u>	<u>2,376</u>	73%	<u>222</u>	7%
Statewide	<u>15,547</u>	<u>10,529</u>	68%	<u>3,740</u>	24%

⁴ Reports of Harm screened out as non-child protection issues or insufficient information account for the difference between total Reports of Harm, assigned and workload adjusted.

DFYS' triage response to ROHs is risk based but leaves some children at risk

To manage an increasing workload, DFYS has developed an informal policy to delay or never investigate ROHs determined to be lower risk. The use of this practice, referred to as workload adjusting, varies between district offices. Some agency offices workload adjusted as many as two-thirds of the ROHs received.

Though DFYS appears to be generally triaging in ways consistent with a risk based approach, the agency's inability to investigate many cases leaves some children at risk.

The ROH described in the inset at right, one of the reports we reviewed, is an example of a workload adjusted report. From our review of 300 workload adjusted reports of harm, a profile of a typical workload adjusted case emerged. In general, these reports are for neglect of older children from families that have been investigated before. The figures on the following page, graphically summarize the various information about workload adjusted ROHs.

Example of a Workload Adjusted ROH

The report of harm concerned alleged neglect of an 11 year old girl. There had been 9 prior reports of harm, 4 of which had been investigated. The narrative stated the child *"has missed 40 days of school this year, not from illness. She is a very bright 6th grader, but is doing very poorly in school - used to be a straight A student. Child is withdrawn, has frequent somatic complaints, sad affect, poor hygiene."*

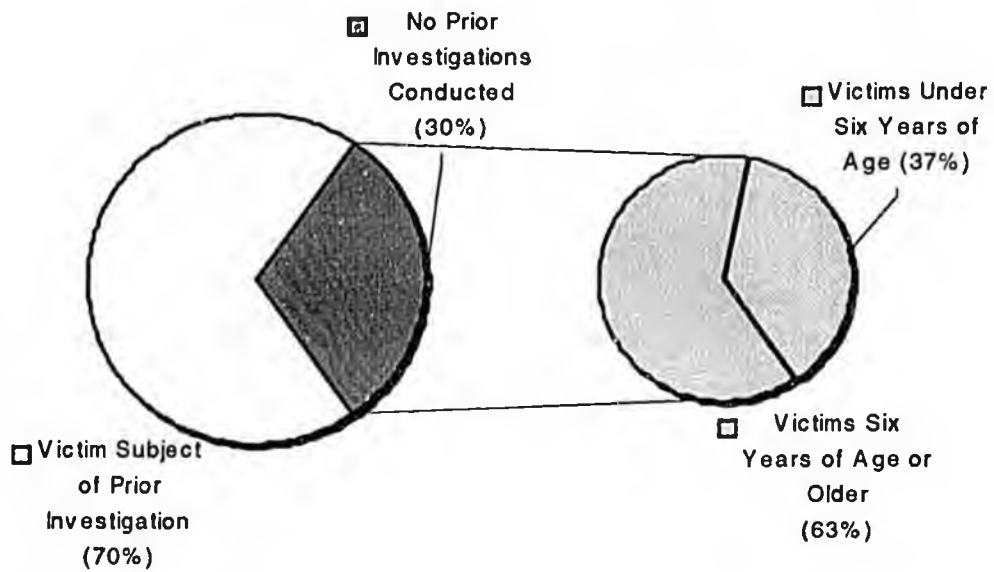
Though this report was not assigned for investigation, another report, received about six weeks later, was assigned. After three more investigated reports, which were substantiated for neglect, the division took custody of the child.

The agency's CPS manual, which provides guidance for prioritizing ROHs, comments that children younger than 6-years-old are more vulnerable to harm than older children. Of the workload adjusted reports we reviewed, 56 (19%) involved children under the age of 6. This group, labeled the most vulnerable by DFYS policy, represents children that are the least able to care for or protect themselves. These children are also more likely to be isolated from public view and mandatory reporters than their school-aged counterparts.

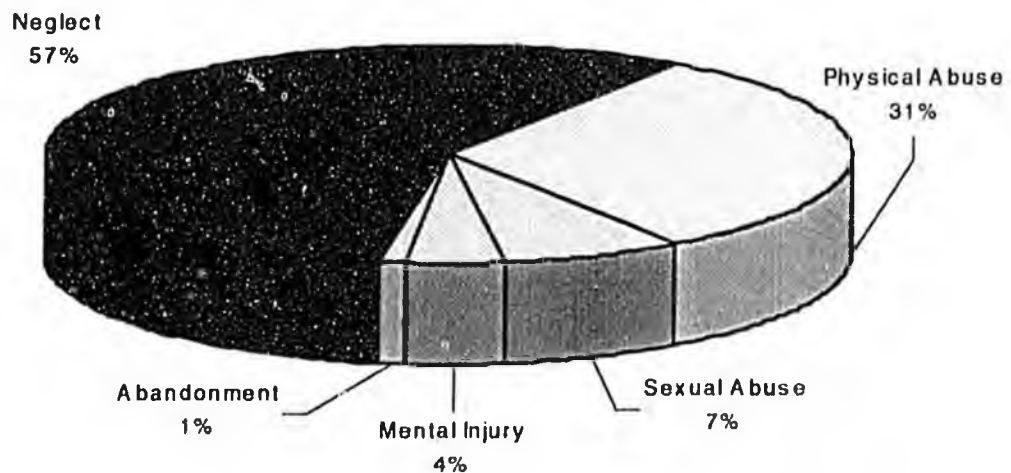
The CPS manual also suggests an evaluation of prior reports of harm as a tool to help determine the prioritization of a report. The Anchorage district office has institutionalized the practice (though not written into policy) of investigating any report on a child that has had the previous two reports workload adjusted. This practice, which is **not** uniform statewide, indicates a recognition that multiple reports often suggest an increased risk to the child. Multiple reports are often indicative of an increased risk to the child. This was borne out in an internal DFYS report that examined and actually "reworked" the cases of children on which the agency had received multiple ROHs. The inset on page 21 further discusses the findings of the agency's multiple ROH report.

We reviewed 300 unassigned Reports of Harm (ROH), of which 116 were categorized as physical or sexual abuse. The remaining 184 were categorized as neglect, mental injury, or abandonment. Of the 116 physical or sexual abuse reports, as the figure below illustrates, 70% involved children that were subjects of prior investigations. The remaining subjects had no prior investigation conducted. Of these reports, 37% of the subjects were children under the age of 6.

Workload Adjusted Reports of Harm



Workload Adjusted Reports by Harm Category



Of the 300 reports we reviewed, 126 involved reports on families that had not been previously investigated. Though a number of prior reports of harm on a family is generally considered to elevate risk, investigated reports provide the agency with knowledge of the child, the family, and the situation. DFYS' knowledge of families that have never been investigated, however, is often very limited. In these cases, the decision to workload adjust a report is entirely dependent on information provided by the reporter. Though mandatory reporters, such as healthcare professionals and teachers are trained to recognize the less obvious signs of child abuse and neglect, many reporters – such as the general public – are less likely to recognize more subtle indicators of abuse or neglect.

Reports of neglect are also more susceptible to being workload adjusted. In general, reports of neglect are assessed as lower risk than reports of physical or sexual abuse. Though the effect of cumulative neglect on children may be as harmful as abuse, the risk of harm associated with each report of neglect, viewed separately, is not usually assessed as significant as an incident of physical or sexual abuse.

Though most of the reports that were workload adjusted were for incidences of neglect or mental injury, 115 of the 300 (38%) were for physical or sexual abuse. Many of these reports concern children that are not immediately exposed to the alleged abuser, but family systems are dynamic, often involving volatile situations. Workload adjusting reports of this nature limits DFYS' ability to ensure the children's continued safety.

In some cases, workload adjusted reports represent ROHs investigated by other agencies. In the Fairbanks and Anchorage district offices, for example, some reports of harm are investigated by military social workers and other on-base officials.

The agency's management information system does not permit us to readily identify these ROHs that are classified as "workload adjusted" but are, presumably investigated by a non-DFYS entity. As a result, we cannot comment on the extent that such reports may "overstate" the number of unassigned ROHs, but our assessment, based on our sample would be that the total would be relatively small.

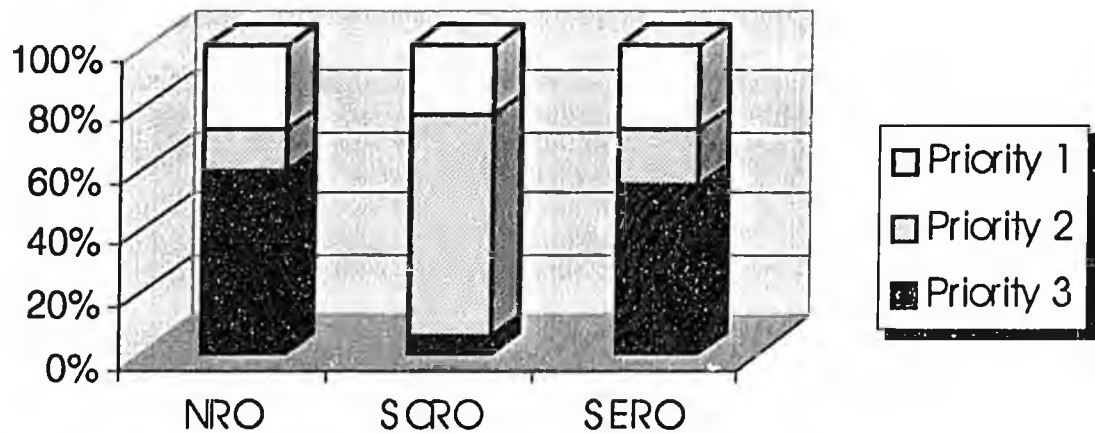
Multiple ROH Report Identified Children at Risk and Key Risk Factors

In response to the failure of DFYS to protect a six year old girl from harm, despite the agency having received 16 ROHs, the commissioner directed an internal review of high risk cases – eventually defined as those with six or more ROHs on record at the agency. The review was undertaken both to ensure the safety of the children in these high-risk situations and to better understand the key risk factors for families with multiple reports.

Of the 475 cases reviewed, 78 (16%) were identified as needing additional casework to ensure the continuing safety of the children involved. Of those, DFYS assumed custody in six cases.

Additionally, through the review DFYS identified two key risk factors related to families with multiple ROHs. In 81% of the cases, substance abuse was involved, while in 59% of the cases, domestic violence was a factor. Some cases involved both factors.

Regional Prioritization

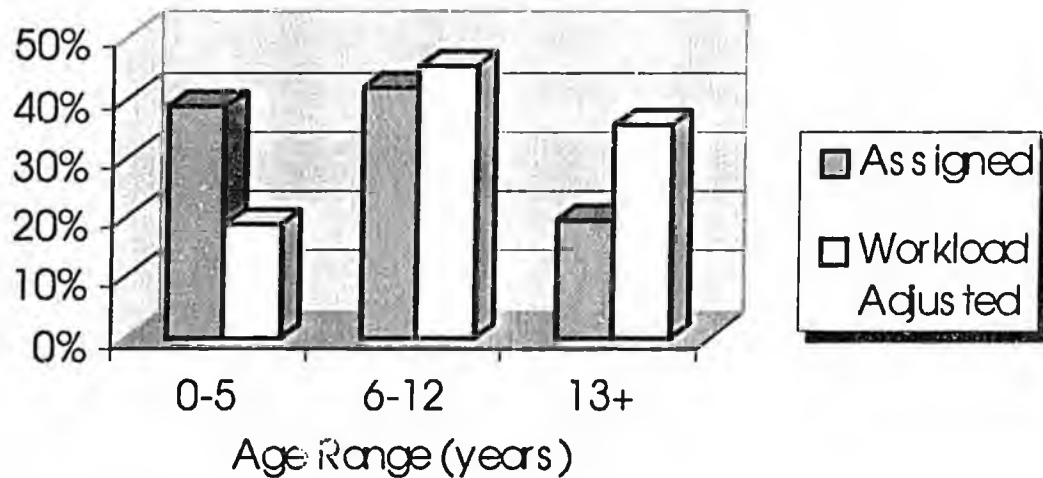


NRO – Northern Region

SCRO – Southcentral Region

SERO-Southeast Region

Referrals by Child's Age



Note—The percentages for the assigned ROHs presented in the above chart represent the summary for all DFYS FY 97 assigned reports (10,529). The percentages for the workload adjusted figures were compiled and summarized from our sample of 300 workload adjusted ROHs.

Many investigations are not initiated as required, but highest priority cases are more timely

As discussed in the Background Information section, DFYS prioritizes investigations based on a supervisor's evaluation of the seriousness of the report. The CPS manual specifies timelines for initiating investigations depending on the priority assigned to the investigation.

For the 401 assigned cases we reviewed, DFYS did not initiate⁵ an investigation within the CPS manual timelines for 174 (43%) reports.

Of these reports with delayed response, most (more than 95%) were priority 2 and 3 reports, but 18 (4.5%) were priority 1 reports, those in which the children appear to be most at risk.

Of the priority 1 cases not investigated within the specified timeline, 7 were for neglect while 11 were for physical or sexual abuse. The average timeline for these delayed cases was more than 5 days compared to the one-day response required by the CPS manual.

Regions Differ in Case Prioritization

Our review found that regions interpret the prioritization process very differently. While consistent percentages across regions suggest that the regions agree on the elements of a report that constitute a priority 1, wide differences in percentages of priority 2 and 3 cases indicate that these cases are treated with less consistency.

For example, cases that may be categorized as priority 2 and investigated through the Anchorage office would possibly be labeled as priority 3 or even workload adjusted in the Fairbanks office. These prioritization differences in conjunction with dissimilar staffing levels result in significant variances between offices in the priorities assigned to reports and in the numbers of reports that are investigated (see the top chart on the opposite page).

Most investigations completed within two months

In a review of the length of time cases take to investigate, as measured by the first report of contact compared to the last report of contact, we found that while the average case took about 35 days to investigate, most (83%) were completed within 60 days. Notably we also found that cases that were ultimately substantiated typically were investigated longer than cases determined to be unconfirmed or invalid. In a review of 412 cases, we found that on average, substantiated cases took nearly 45 days to investigate, while unconfirmed cases took only 29 days.

Lack of timely and thorough investigations can actually increase the risk of abusive or neglectful behavior. According to a 1990 report issued by the U.S. Advisory Board on Child Abuse and Neglect, unresolved investigations create and sustain uncertainty in the family about the future. This uncertainty causes anxiety within families, and may stall children's development. Further, mandated reporters (i.e. teachers, doctors, etc.) may begin to doubt the system and fail to continue to report suspected cases of abuse, thus placing children at greater risk of continued abuse or neglect. The risk is even greater for families who are not offered or do not accept services following an investigation.

DFYS social workers do not consistently meet required ongoing case contact standards

Besides being unable to investigate all ROHs as required by statute, DFYS social workers are unable to effectively supervise the children that are in state custody and other children that require "ongoing" casework. Included in the agency's policy and procedures are what are termed

⁵ By DFYS' definition, a social worker "initiates" an investigation when she/he attempts a face to face contact with the family. This may include school visits or home visits, even if the social worker is unable to actually contact the family due to nobody at the residence or the child being absent from school.

"contact standards." These standards are established based on the severity of the case, and require social workers to make and document their contacts.

The Southcentral Region developed and implemented an internal supervisory review process for ongoing cases. The reviews were carried out over the last nine months of calendar year 1997. These reviews, in total have indicated that in the Southcentral Region more than two-thirds (67.5%) of the ongoing cases did not meet the required contact standards.

These findings appear to be consistent with a 1996 review conducted by the University of Washington of the Anchorage district office case files. The report included the following observations regarding case contacts:

1. Case records did not document required family home visits.
2. Of 322 cases where home visitation should have occurred, 44% documented one or more home visits within the last six months, while documentation of a required visit was lacking in 56% (181) of the cases.
3. Of 271 cases in which home visitation should have been expected in the last year, at least one visitation was documented in only 60% of cases.
4. Visits to foster homes are not occurring as necessary.

Making the necessary contacts with the individuals involved in a particular case is the central aspect of casework. The caseworker must stay apprised of changing dynamics in the child's life, the progress of the parents and children at reunification, and gathering information from involved third parties such as foster parents and counselors regarding the child's case. Essentially, contact and the interaction generated by such caseworker contact is the central aspect of casework. By not meeting, or documenting contact standards, as set out in the agency's CPS manual, DFYS staff is not effectively and consistently fulfilling a central part of its mission.

The lack of consistency with which the agency meets casework contact standards, provides some credence to the information generated by the division's workload analysis report. According to such a statewide analysis developed in November 1997, DFYS needs 15 more caseworkers to adequately address the agency's current caseload.⁶ The estimate likely understates the need for additional workers, since it is widely acknowledged within the agency that the workload measurement model tends to understate work hours actually required to carry out the casework. While recognizing the report may understate the need for workers, we still believe it is significant that the analysis shows the need for more resources. This analysis is consistent with the deficiencies noted by both internal and external reviews.

⁶ The analytical workload report attempts to measure the division's workload in a consistent, objective manner, and identify when, and by how much, the agency becomes short-staffed. The workload analysis report attempts to quantify agency workload by assigning an estimated number of hours to various tasks involved in working a particular case. The hours assigned for each casework task is based on the severity of the cases. More severe cases require more casework contact, which results in a higher number of work hours being required. The merits and drawbacks of workload measurement information is discussed further in Recommendation No. 8.

DFYS did not fully utilize appropriation funding for personnel during FY 97

In FY 97, DFYS' appropriation for child protective services was set out in four different budget components – Central Office, Northern Region, Southcentral Region, and Southeast Region. Funding in these four components supported both child protective services and youth probation activities (youth correction activities related to facilities were funded in other, separate budget components).

As shown in the chart on page 27, these four components comprised a single appropriation within DFYS' budget. For these four components, DFYS received FY 97 appropriations of \$22,560,300 designated for personal services. This total appropriation was slightly less than the governor's request of \$22,788,600. The requested amount reflected a vacancy and turnover (v&t) factor of 4.9%. Since no positions were specifically eliminated by the legislature, the appropriation of the less than requested amount essentially resulted in a slightly increased v&t factor of 5.9%.

DFYS also received additional authorizations for personal service expenditures of \$699,200 for this appropriation. This additional authorization funding was for costs associated with new legislation related to deterring of automobile theft, runaway minors, the State's welfare reform initiative, and cost-of-living pay increases approved by the legislature. The agency transferred a net of \$11,400 by shifting funding from personal services to other account categories — resulting in a total net increase of \$687,800. As shown on the following page, authorizations for the appropriation totaled \$23,248,100.

Barriers to Effective Hiring also had an Adverse Impact on DFYS Service Delivery

In addition to holding positions open to meet v&t requirements, the filling of positions was also adversely effected in FY 97 by the constraints of the state's recruitment and hiring process. During the course of our review we interviewed various DFYS hiring managers who expressed frustration over both the lack of qualified and attractive candidates for vacant positions, and the difficulties involved with hiring within the requirements of the state personnel system.

The Department of Health and Social Services has taken steps to address many, if not all the concerns and problems involved with keeping agency social worker and other positions filled. Below is a listing of the various problems cited by agency hiring managers, and the action that the department and agency are either taking or intending to take to address them.

Problem	Corrective Action
Job classification registers for social worker positions were not kept open continuously. When registers were open, they were opened at times of the year that did not coincide with college graduation dates — a likely source of prospective employees.	DHSS began continuous recruitment for social worker I - IV and social services associate I - III positions during January 1998. In June of 1992, the application examination authority, for all departments, was consolidated within Division of Personnel (DOP), Department of Administration. DOP closed most job classes to open recruitment. Application examining became backlogged at DOP. Authority to examine applications was transferred back to all departments in July 1996. At this time, DHSS addressed backlog of approximately 4,000 applications.
Applicants, despite scoring well against qualification criteria often were not considered desirable candidates by hiring managers, based on past work performance. These individuals and unresponsive candidates hinder the hiring process by filling the upper ranks of the job register.	No corrective action. These candidates cannot be removed from the registers under current personnel rules involuntarily. Workplace Alaska could provide more hiring flexibility to DFYS offices. ⁷ However, the General Government Unit has not "signed off" on having social worker positions recruited through this alternative program.
Most social worker positions are ineligible for the Workplace Alaska, on-line, internet hiring process.	No corrective action in immediate future. Class action lawsuit currently exists between the Unions and the State of Alaska concerning Workplace Alaska. While more hiring responsibility is placed on DFYS offices through using Workplace Alaska, most expressed approval for the process and stated that better candidates are produced than through the traditional register hiring process.
Application rating tool is too cumbersome and time consuming.	DHSS Human Resources section revised application rating tool during January 1998. All people on existing registers were asked to reapply.
Difficulty attracting employees to rural offices.	No direct corrective action. DFYS hopes continuously open registers, improved training, and establishing a relationship with the University of Alaska will provide relief to this problem.

⁷ Workplace Alaska is an alternative state employment procedure which allows state agencies to recruit and hire personnel through advertising of a separate listing, posted on the internet, rather than working the traditional ranked register system. However, as noted above, most line social worker positions remain subject to the standard state hiring process.

<u>DFYS Budget Component</u>	FY 97	
	<u>Governor's Request (Personal Services)</u>	<u>Appropriation (Personal Services)</u>
1 Delinquency Prevention		
2 Foster Care		
3 Subsidized Adoption and Guardianship		
4 Residential Child Care		
5 Family Preservation		
6 Southcentral Region	\$ 10,188,976	\$ 10,118,000
7 Northern Region	6,958,603	6,878,400
8 Southeastern Region	3,355,049	3,309,400
9 DFYS Central Office	<u>2,285,972</u>	<u>2,254,500</u>
10 McLaughlin Youth Center	\$ <u>22,788,600</u>	22,560,300
11 Fairbanks Youth Facility		
12 Nome Youth Facility		
13 Johnson Youth Center		
14 Bethel Youth Facility		
15 Social Services Block Grant Offset		
Legislation for Additional Personal Services Authorizations		408,000
Cost of Living Allowance Funding		291,200
Net Other Transactions (Transfers to Other Accounts)		<u>(11,400)</u>
Total Personal Services Authorizations		\$ <u>23,248,100</u>

A standard practice in most executive branch agencies is to leave some authorized, funded positions vacant in order to be sure operational expenditures are within established budgets (which are set with a v&t factor "built-in"). Although DFYS received a relatively small reduction in the requested funding for staff, agency managers left 21 positions vacant for all of FY 97.⁸ Of these, ten were case carrying social worker positions, one was a social worker supervisory position, while six others provided support, both administrative and programmatic, to line social workers. Three Central Office positions were kept completely vacant. Only one juvenile probation position was left open for all of FY 97.

Our analysis indicates that child protective services, particularly in-the-field social worker positions, absorbed a disproportionately greater number of these empty positions, ostensibly kept vacant to cover the agency's imposed v&t factor. This practice was particularly pronounced in DFYS' Northern Region (NRO). Of the ten case-carrying social workers positions kept vacant statewide, five were in NRO. Additionally, NRO held vacant a supervisory social worker IV position, in addition to having three of the six administrative support forced vacancies.

The combination of the positions left vacant, (or forced vacancy factor), combined with the other positions that went vacant for shorter periods time (the natural vacancy factor), allowed DFYS to come in well under (just over \$1 million) the agency's FY 97 personal services

⁸ One position included in our count of 21 was filled for two months, and another was filled for only one month. The other 19 were left completely vacant for all of FY 97.

budget. As a result, the agency has sufficient funding to cover retirement incentive program costs not only for staff within the agency's appropriation, but for other agencies within DHSS.

Most of the excess authorization funding (just over \$880,000) was used to fund a reimbursable services agreement (RSA) with the Division of Retirement and Benefits for retirement incentive program (RIP) costs. The RSA essentially prepaid RIP costs for FY 98, FY 99, FY 00, and FY 01. In addition, the RSA funds were used not only to cover the RIP costs for DFYS employees, but also for some of the RIP costs of participating staff of the Alaska Psychiatric Institute. See Recommendation No. 4 for further discussion of these transactions.

Summary of Caseload and Personnel Issues

As discussed in this section, our review of various aspects of FY 97 operations showed DFYS did not consistently meet either its statutory mandates nor the agency's own internal measures of effective casework. In our view, it is clear that the primary reason for the agency's failure to effectively operate is the lack of enough qualified, trained, line social workers.

To some degree, the agency contributed to this lack of resources, by the manner in which it allowed its personnel to be deployed during the year. Despite having vacancies beyond what was needed to meet its budget, it is our conclusion that this factor alone does not completely account for the agency's inability to effectively carry out its mission. We discuss further in Recommendation No. 1 our concerns about personnel resources and the extent that additional positions are needed to remedy the problems involved.

Other Issues

In addition to the personnel and caseload issues discussed in the previous section, there are other issues that have an impact on the operations of the Division of Family and Youth Services. State law also affects the functioning of the agency, and how it is interpreted and applied by the courts. In addition, new federal legislation prospectively will have a substantial impact on the operations, and possibly funding, of DFYS. This legislation will effect the training and casework practices of the agency. Given these issues we offer the following conclusions and concerns.

Lack of specificity in current statutes limits DFYS' authority to terminate parental rights

We often saw cases where parents repeatedly failed to take appropriate action or change their personal conduct to alleviate the living conditions that posed a threat to the safety of their children. Included in the cases we selected for review were two where DFYS moved to terminate parental rights. In both instances there were numerous children involved and the parents had an extensive history of failure in complying with the case plan developed by DFYS. The case plan attempted to reunify the children in state custody with their parents while providing some assurance of safety and care. The children's case files involved sequential case plans, filled out over numerous years, which called for the parents to enter substance abuse treatment. The parent(s) involved were given multiple opportunities to make minimal changes

needed to forestall termination of parental rights, but their efforts were repeatedly insufficient to fully resolve the problems involved.

In the course of our review, we became aware of two recent Alaska Supreme Court decisions that have served to narrow the State's child-in-need-of-aid (CINA) statutes. These decisions appear to be primarily the result of unclear statutory wording and have had an impact on agency casework. The court's interpretation and application of the CINA statute has essentially driven casework practices. This has made it more problematic for the State to seek parental rights terminations and contributes to the ongoing concern about children "lingering" in repeated foster care placements.

The governor's Child Protection Working Group report included the recommendation that stricter guidelines and timelines related to the termination of parental rights be established in statute. The working group observed that current laws do not establish clear and definite timelines nor provide clear guidance establishing the responsibilities of parents to address either the behaviors or conditions which expose their children to harm. As a result, children often linger for years in state custody without a permanent home. The working group stated that "*parents need to take a greater responsibility for getting their children back.*" From our review of case files, combined with our historical experience and review of cases in prior audits, we concur with the governor's working group recommendations and observations.

DFYS staff training efforts have suffered from lack of coordination, consistency, and funding

DFYS training has undergone significant transition over past years resulting primarily from shifts in administration, decisions by management, and/or use of available funding. This transition has resulted in untimely "CORE" training which provides child protection orientation to new employees. Prior to February 1998, CORE training had not been held since early 1995. CORE training offered by DFYS is a three-part training course providing:

- an overview of State of Alaska child protection services;
- interviewing techniques; and,
- case management.

Two Alaska Supreme Court rulings in recent years have weakened DFYS' authority to intervene on behalf of children

Alaska Statute 47.10.010 (a) sets out the following six circumstances where a court should find that a child is in need of aid (CINA):

1. The child being habitually absent from home or refusing to accept available care, or having no parent, guardian, custodian, or relative caring or willing to provide care, including physical abandonment [by the child's parent or parents].
2. The child being in need of medical treatment to cure, alleviate, or prevent substantial physical harm, or in need of treatment for mental harm as evidenced by failure to thrive, severe anxiety, depression, withdrawal, or aggressive behavior or hostility toward others, and the child's parent, guardian, or custodian has knowingly failed to provide the treatment.
3. The child having suffered substantial physical harm or if there is an imminent and substantial risk that the child will suffer such harm as a result of the actions done by or conditions created by the child's parent, guardian, or custodian or the failure of the parent, guardian, or custodian adequately to supervise the child.
4. The child having been or being in imminent and substantial danger of being, sexually abused either by the child's parent, guardian, or custodian, or as a result of conditions created by the child's parent, guardian, or custodian, or by the failure of the parent, guardian, or custodian adequately to supervise the child.
5. The child committing delinquent acts as a result of pressure, guidance, or approval from the child's parents, guardian, or custodian.
6. The child having suffered substantial physical abuse or neglect as a result of conditions created by the child's parent, guardian, or custodian.

For the most part, these subsections have not generated much controversy and the courts have applied what is termed their "plain meaning" when interpreting and applying the various clauses. However, the way in which two recent Alaska Supreme Court decisions have applied and interpreted sections one and six of the above list, have had an adverse impact on DFYS' ability to intervene legally on behalf of a child.

In January 1996 the Alaska Supreme Court ruled that under current statute the courts do not have jurisdiction to intervene solely on evidence that a parent is willing but unable to provide for a child's needs (section one above). In September 1997 the court ruled that Alaska courts do not have jurisdiction to intervene to protect a child based solely on evidence that the child has suffered "emotional neglect."

One legal commentator stated, in an *Alaska Law Review* article "[w]hile many children in need of aid remain unaffected by these two decisions because they are protected by other subsections of the [child protection statutes], these decisions decidedly have left children vulnerable in certain cases of neglect."

Case carrying social workers also expressed concern regarding the need for training specific to their job. As an example, investigators were concerned about not receiving training for interview techniques specific to child sexual abuse. It is critical for investigators to receive training relevant to their jobs as they are required to determine whether children should remain in or be removed from their homes, and often must justify, in court, their decision to remove the child.

Some Northern Region social workers and administrative staff filed a class action complaint with their union in October, 1997 which identified their concerns regarding inadequate training. These employees felt that they had not received the training resources necessary to perform the responsibilities of their respective positions. Included in the agency's draft response to the class action complaint, was the following statement:

CORE 101

This is a five day course in basic child protection services to be provided to all staff who have not previously attended core training. Topics covered include, but are not limited to, the history of child welfare, DFYS mission and mandate, personal safety, assessment of child abuse and neglect, intake, investigation, confidentiality, ethics, cultural sensitivity, family centered services, safety issues, and stress and time management.

The reason for the lack of necessary training for social workers has been lack of funding for the training purposes. For example, there is not enough funding available to complete the CORE series in this fiscal year. However, the problem of lack of funding for training of social workers must be addressed at the legislative level.

According to the agency, funding concerns were both travel as well as personal services related. Our review indicates that this is not solely a legislative funding issue however, it is coupled with a management decision not to fill all the regional training positions. Review of funded positions indicates that all three training positions were funded for both FY 97 and FY 98.

We recognize DFYS has intensified its training over the past few months and are now offering the basic CORE training to social workers. Additionally, workers are scheduled to attend job-specific training such as courses related to inhalant and sex abuse, and interviewing children.

Concurrent planning will be important in meeting new federal law requirements

The Adoption and Safe Families Act of 1997, signed into law November 19, 1997, amends the Child Welfare and Adoption Assistance Act of 1980. The new law clarifies that the health and safety of children served by child welfare agencies must be of paramount concern and aims to move children in foster care more quickly into permanent homes. Such federal requirements may require states adopt the practice of concurrent planning.

Concurrent planning allows two plans to be in place at the same time. This will require the social worker devise a permanency plan for an abused or neglected child. The concurrent

plan simultaneously works toward the goal of family reunification with a back-up strategy for an alternative permanency placement. In some cases, the likelihood of a child returning home is slim, but the law requires that reasonable efforts be made to reunify children with the birth families. By having a backup plan in place in case reunification efforts fail, the backup plan can continue once it is decided reunification efforts should end.

Two plans should reduce unnecessary delays that prevent a permanent, stable situation for children and families: minimize the number of out-of-home placements; and save foster care dollars by redirecting funds that are used to sustain homes with little chance of success. Some key elements to concurrent planning will require additional time by the social worker. The social worker will initially need to identify children in need of concurrent planning and provide intensive up-front reunification services. Full disclosures will need to be made to the biological parents and other involved parties.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should consider authorizing and funding additional social worker positions in order for the Division of Family and Youth Services (DFYS) within the Department of Health and Social Services (DHSS) to better meet the agency's statutory mandates.

As evidenced by the conclusions presented in the previous section, DFYS is unable to respond effectively to either of the two main aspects of its overall mission. The division is not effectively meeting its responsibilities either in the investigations or screening process or in the manner in which the agency monitors children in state custody or otherwise subject to supervision. As set out in the Report Conclusion section:

1. DFYS cannot investigate all reports of harm (ROH) – DFYS is required to take calls regarding suspected child abuse and neglect. The agency is required by statute to respond to and investigate all such reports of harm (ROH) that fall within the agency's legal jurisdiction. Without conducting an investigation in every case, DFYS cannot assess a child's safety. DFYS was unable to respond to more than 3,700 ROHs during FY 97. To ensure DFYS can investigate all appropriate ROHs, we believe additional social worker staff is needed.
2. DFYS cannot meet child protective service (CPS) standards related to supervision of children in state custody – The frequency of contact between the social worker and the families on their case load provides an objective way to measure the social work being provided to children and families. Both internal and external reviews of ongoing cases indicate the agency is not able to carry out effective, ongoing casework on the children in state custody, or otherwise being supervised by the State. Reviews typically point out a lack of sufficient documentation of required social worker contacts with children.

According to Governor Knowles' Child Protection Review Team's report issued in December, 1997 current caseloads for investigatory social workers at DFYS ranged from 26 to 35 cases per month. Social workers in the agency with ongoing caseloads average between 22 to 24 cases, which is also twice the Child Welfare League of America (CWLA) standard of 12 to 15. The report pointed out that this total was 100% to 200% above the CWLA standard of 12 cases per worker. However, CWLA notes "*virtually no state spends enough to meet basic national child welfare standards.*" In fact, national averages are 15.3 cases per investigations worker and 24 per ongoing caseload worker.

Lack of adequate staff to investigate reports of child abuse and neglect has meant that not all ROHs can be investigated, and lower risk cases are delayed. Besides leaving children at greater risk, these circumstances have also limited early intervention which contributes to problems going unaddressed until they are more severe or chronic. Intervention at that time is typically more difficult and costly.

Higher case loads and understaffing also limits the State's ability to do effective casework and take better care of children who are in its custody. Social workers do not have the time to help families and monitor the safety of children.

DFYS needs more staff to meet its statutory mandate to investigate all ROHs received. Staff shortage problems were brought about partially by the misallocation of personnel resources, particularly in the Northern Region. Despite this factor, we believe the agency needs additional staff in order to meet its statutory responsibility to respond to, and investigate, each ROH within its jurisdiction. Additional staff are also needed for the agency to provide more effective casework to children in state custody.

We have reviewed the agency's budget request increment for the funding of 40 additional staff⁹ and the documentation the agency prepared to justify the number of social worker positions involved. The information we reviewed seems reasonable and does tend to support the social worker positions involved.

Most of the costs of proposed new positions, at least for FY 99, come from federal funding sources. More specifically, the department is proposing to use \$286,900 in Title IV-E funds along with \$1,065,000 from the Social Services Block Grant, which was generated by welfare reform savings. These totals cover over half of DHSS' \$2 million request. Federal authorities are permitting states to shift funding in this manner as an incentive to implement welfare reform measures. When considering whether to fund all or part of these requested positions, we suggest the legislature inquire and satisfy itself regarding funding support for the positions over the next few years.

In our view, DFYS needs new social workers and related support positions to effectively carry out the agency's mission - to protect children from abuse and neglect. The agency has asked for 40 new positions (see Recommendation No. 2). It does appear the agency did consider the social worker positions funded, but left vacant in FY 97, when developing estimates. We also know that the time estimates used as a basis for calculating some of the positions included in the budget request were conservative in that estimates understate the actual time involved to carry out certain social worker tasks (see Recommendation No. 8).

We support the social worker component of the department's budget request. Based on our fieldwork review and observations, and our overall assessment of the agency's needs, while also being mindful of the practical constraints involved in recruitment and hiring, we believe the agency could effectively utilize 30 to 40 positions in addition to the fully funded positions already authorized. Currently, the budget request recognizes hiring constraints. Under the request, DFYS would not receive 12 month funding for all new positions. Specifically, funding is staggered so 26 positions are funded for 12 months, 13 positions are funded for 9.6 months, and 1 position is funded for 10 months. In our view, even these assumptions reflect an overly optimistic estimate of the agency's ability to recruit and fill social worker positions.

⁹ DHSS documentation shows positions are based upon staff shortages indicated by FY 97 assigned investigations and 3,725 ROHs which were workload adjusted during FY 97.

Recommendation No. 2

If the legislature appropriates additional funding for child protection services for FY 99, the commissioner of DHSS should report the effects of those increases to the legislature.

The governor has proposed a \$32 million legislative package called Smart Start to expand public services to Alaska's children. An element of this plan calls for an increase to the child protection system in the amount of \$14 million.

This proposed increase to Alaska's child protection system addresses numerous phases of protection services including expanding resources for Alaska State Troopers, improving the State's foster care system, and, at a cost of \$1.6 million, adding 40 new DFYS staff positions. As discussed in Recommendation No. 1, we believe weighing current workload demands against DFYS' statutory mandate, and considering the impact of recent federal legislation (see Recommendation No. 3), does suggest a need for more DFYS staff.

To ensure accountability for any funds appropriated to address this need, we believe DFYS should measure the impact on child protection services resulting from any additional funding authorized by the legislature. Specifically, we believe this information should be reported to the legislature and include, at a minimum:

- The progress of any funded elements of the governor's Smart Start package for child protective services.
- The impact any additional staff have had on DFYS' ability to respond to uninvestigated reports of harm, to investigate in a timely manner, and to meet contact standards for ongoing cases.
- Vacancy experienced within social worker positions during FY 98 and the first six months of FY 99 and how close that vacancy reflects budgeted vacancy. This analysis should include conclusions regarding whether hiring problems experienced in the past have been remedied.
- Changes made to the child protection system as a result of any audits, management reviews, changes in federal legislation, and, potentially, changes in state legislation.

We believe DHSS management, in order to demonstrate its willingness to be held accountable for the extra funding, should commit to providing the legislature such information, in a formal report by February 1, 1999.

**Governor's Smart Start Proposal:
Composition of 40 requested DFYS
Staff Positions**

Southcentral Region

<u>Job Type</u>	<u>Qty.</u>
Social Worker	16
Supervisory Social Worker	2
Licensing	1
Support	5
SCRO Total	24

Northern Region

<u>Job Type</u>	<u>Qty.</u>
Social Worker	7
Supervisory Social Worker	2
Licensing and Eligibility	3
Support	4
NRO Total	16

TOTAL NEW POSITIONS **40**

Recommendation No. 3

The legislature should consider amending relevant child protection statutes in order to provide a basis for better and more consistent casework.

In our review of case files done for this review along with files reviewed in the course of prior audits, we came across numerous children that lingered in state custody due to the irresponsibility of their parents. We often saw cases where parents repeatedly failed to take appropriate action or change their personal conduct to alleviate the living conditions that posed a threat to the safety of their children. During this review, we went through two specific files where the State had moved for termination of parental rights because of the parents repeated failure to effectively comply with the established case plan. In both instances the court did not approve of termination, primarily due to the current interpretation and application of the State's child-in-need-of-aid (CINA) statutes.

As discussed in the Report Conclusions section, Alaska Supreme Court rulings made in recent years have served to undermine the practical enforceability of two sections of the State's central child-in-need-of-aid statutes. Specifically, the courts addressed:

1. Willingness to care – AS 47.10.010(a)(1) states a child may be a child-in-need-of-aid if they have no parent, guardian, custodian, or relative "*caring or willing to provide care . . .*" [Emphasis added.] The court interpreting this language required the parent care or be willing to care, but is not required to do both. The courts found that statute does not "*require ability to care – willingness is enough.*" Given this interpretation, the State's ability to terminate parental rights under this provision is limited as long as the adults involved express a willingness to care for the child, regardless if such willingness is demonstrated by their behavior in meeting the requirements of the DFYS case plan.
2. Neglect must be physical and substantial – AS 47.10.010(a)(6) states a child may be a child-in-need-of-aid if he or she "*...suffered substantial physical abuse or neglect as a result of conditions created by the child's parent, guardian, or custodian.*" [Emphasis added.] Here the court essentially attached the modifier substantial to both the phrases "physical abuse" and "neglect." Moreover, the court interpreted the law to require physical neglect, as opposed to emotional or other non-physical neglect. Given this interpretation, in any CINA proceeding, such as termination, the State must demonstrate not just neglect, but substantial physical neglect to successfully make its case.

The Kempe Center, one of the outside organizations that reviewed the casework carried out in selected DFYS cases, observed in its report that:

. . . current Alaska statutory and case law needs to be carefully reviewed. The review should include Alaska statutes, court interpretation of Alaska statutes, and the understanding and behavior of DFYS staff based on current law. . . .

Read narrowly, only if a child is at risk of being sexually abused by the child's parent, guardian, or custodian can parental failure to protect the child be the basis for intervention This language leaves unclear what is envisioned for a

parent who risks his or her child with sexualizing casual acquaintances, no matter how often or with what result. In general, the statutes seem to leave confused the question of a parental incapacity which allows a child to substance abuse, contributes to depression or irreversible developmental delays so long as the parent expresses willingness to keep trying.

The governor's Child Protection Working Group suggested that statutory changes be pursued that, in general, would accomplish the following:

1. Change the philosophical orientation of the statutes – The working group suggested that instead of the current statutory focus of the termination statute on the conduct of the parent, the focus be shifted to the best interests of the child. The working group observed in its report that "the purpose of the statutes is to protect the child; therefore, the basis for terminating parental rights should also focus on the needs of the child.
2. Separate statutory provisions for termination – Currently, termination of parental rights is listed as just one of several "disposition" options available once a child is adjudicated as CINA. The working group recommends that termination be listed separately with its own distinct definitions and specific listing of what will "*justify and constitute grounds for terminating parental rights.*"
3. Establish guidelines for compliance based on the age of the child – The working group noted that many states set guidelines on how long a parent has to comply with a reasonable case plan to regain custody of their children. Usually, the younger the child, the quicker the parent must comply. Adoption of such a system in statute would reduce the number of children lingering in the system.¹⁰

Besides promoting both better casework and long-term care for the child involved, such a change in statute will clarify DFYS' authority and give the agency a better chance of maintaining the federal funding it receives under Title IV-B and Title IV-E of the federal Social Security Act. Funding under these two sections assist states in providing a wide range of child welfare services – everything from subsidizing the cost of out-of-home placements, to training funds for social workers, to funding the development of management information systems. New federal legislation, the Adoption and Safe Families Act of 1997, which became effective in November 1997, ties certain federal funding assistance to the state achieving various requirements related to out-of-home placement of children.

Under the new federal legislation, States must move to terminate parental rights and identify, recruit, and approve a qualified adoptive family on behalf of any child, regardless of age, who has been in foster care for 15 out of the most recent 22 months. These new requirements apply not only to children entering foster care in the future but also to children already in out-of-home placement. For children already in care, states must phase in filing of

¹⁰ The working group's report cites as an example the State of Massachusetts. According to the report, that state gives as a basis that "*(if) the child is four years or younger and in out-of-home placement for at least six of the last twelve consecutive months, and the child was prevented from returning to the parent's home due to the parent's failure to accept services to address and correct the conditions that caused the child to be in out-of-home placement...*" the state can move to terminate parental rights.

termination petitions starting with the children that already have adoption permanency plans or who have been in out-of-home care the longest.

Additionally, it appears federal authorities will require state officials to certify that state law conforms with certain provisions of the new federal legislation. In particular, the federal government will require state law to:

1. clarify "reasonable efforts" requirements related to termination of parental rights;
2. provide for the State to initiate or join proceedings within a specified time to terminate parental rights; and,
3. clearly state the safety of children be the paramount statutory concern.

To provide incentive for state compliance, the federal government is likely to make some, if not all federal Title IV-E funding conditional on this certification. In recent years this funding has represented approximately \$10 million in federal funds for Alaska. All of the provisions cited above are included in current proposed legislation.

In our view, many of the provisions contained in bills currently being considered by the legislature (HB 375 and SB 272) will serve to address concerns we have about shortening stays in out-of-home placement and compliance with federal legislation. These proposed bills ensure continued federal support for child placement, training, and a workable management information system. We recommend the legislature evaluate the issues involved and consider appropriate revisions to the State's CINA statutes as set out in proposed legislation.

Recommendation No. 4

The DHSS director of administrative services should ensure expenditures for the retirement incentive program (RIP) are made in accordance with legislative appropriations.

The legislature passed a retirement incentive program during the 1996 legislative session. The bill requires departments pay for three years of employer contributions for each RIP participant. This effectively purchases three years of retirement benefits for each employee electing early retirement. The RIP legislation (Chapter 4, FSSLA 96, Section 22) requires the employer to file a proposed retirement incentive plan with the commissioner of administration. This plan must include a reimbursement agreement that:

Requires the employer, for each employee who retires under this plan to reimburse the appropriate retirement system, within three years after the end of the fiscal year in which the employee is appointed to retirement

In anticipation of state employees taking advantage of the RIP program, DHSS encumbered unexpended balances from various FY 97 appropriations for those employees that had applied for RIP. The majority of the employees who had applied for RIP in FY 97 were not scheduled to retire until after July 1, 1997 (FY 98) at the earliest. Additionally, for those employees who retired, DHSS paid the full three-year obligation using unexpended FY 97 funds, an amount totaling \$2,165,305.

The Alaska Constitution Article IX, Section 13 requires expenditures be made in accordance with legislative appropriations. We believe the initial obligation for RIP costs should not be recognized until an employee actually retires. Therefore payment of those costs should not be made from operating appropriations relating to years preceding an employee's retirement.

DFYS encumbered their FY 97 Family and Youth Services appropriation in the amount of \$880,000 at the end of the year to pay for RIP costs. This encumbrance was liquidated in FY 98 with a transfer to the Division of Retirement and Benefits totaling \$785,317. Out of 21 retirees who were employed through the Family and Youth Services appropriation, 3 retired during FY 97 and 18 retired during FY 98. The three-year employer costs for the 3 FY 97 participants totals \$107,954. Of this amount, \$6,412 represents the FY 97 portion of these costs based upon a 36 month, or 3 year, payment period. The remaining funds were spent for employees outside the Family and Youth Services appropriation and for RIP costs reflecting obligations of FY 98 through FY 01.

While the bill did not prohibit departments from paying the full employer cost in any one year, we believe this is inappropriate. The RIP program is designed to create cost savings within the positions involved by filling those positions with lower cost employees. Those savings, by design, should be realized incrementally as time passes. Payments for employer contributions of RIP retirees should reflect these annual savings and therefore payments should be made on an annual basis.

In addition, we believe paying the employer costs for RIP employees in one-lump sum violates the basic premise of the legislative budget process where annual operating

appropriations are made for operating costs of state agencies for a one-year time period. We believe using an operating appropriation for a three-year obligation is inappropriate.

The RIP legislation did not provide authority and specific allowance on how the funding is provided. Therefore, we believe the appropriation from which a retiring employee is funded should pay the relevant RIP costs.

We recommend the DHSS director of administrative services initiate corrective action by either: (1) reversing the expenditures made to the FY 97 appropriation and charge the correct fiscal years' appropriation; or, (2) with the concurrence of the Office of Management and Budget, request ratification from the legislature for these payments.

Recommendation No. 5

The director of DFYS should develop and implement a clear and consistent policy regarding when ROHs can be left uninvestigated.

As discussed in Background Information section, some ten years ago DFYS developed systematic guidelines to be followed in staff shortage or work overload situations. DFYS referred to this practice as "workload adjust." The guidelines, which were tied in part to the agency's workload measurement model, provided some central direction as to how work was to be prioritized in situations where workload demands precluded meeting all the agency's operating responsibilities. If the workload adjust situation continued, agency personnel were to use the workload measurement model to demonstrate the extent of the shortage in staff and as support in seeking additional resources.

Our evaluation of the escalating volume of ROHs to which the agency was unable to respond, along with various internal case reviews, concluded various offices in the State were applying the "workload adjust" guidelines in a very different manner from what was originally intended.

The guidelines intended for ROHs to be workload adjusted on a temporary basis when high caseload prevented timely investigation and review. However, rather than being a short term approach to responding to a period of high service demand, workload adjusting has become institutionalized as a standard, everyday response to increasing numbers of ROHs.

Though we recognize that Alaska Statute requires the agency to investigate all reports of harm, we are aware that there will likely be situations when the agency will find this mandate impossible to meet. In our view, it is important to have clear consistent guidelines for all child protection offices to follow. We also recommend that any such guideline be tied to a revised workload measurement model (see Recommendation No. 8) to clearly document the workload demands on staff and establish the need to prioritize between the various cases and ROHs. Additionally, a new, clear and consistent policy should be accompanied by uniform guidelines for assigning consistent priority ratings for all ROHs received. Such an integrated approach to workload adjusting and consistent priority ratings would promote better overall child safety in circumstances where demand for services exceed available staff.

Recommendation No. 6

The director of DFYS should continue efforts to develop an integrated professional development and training program in conjunction with the University of Alaska and pursue Title IV-E funding.

DFYS and UAA have signed a memorandum of agreement to develop a training program for current and potential social workers. This training will be at least two-fold in that it will provide the following:

1. A training academy designed to address core training and specialized training needs of DFYS workers.
2. A stipend program offered to DFYS employees who wish to enroll in the social worker program to obtain either their Bachelor of Social Work (BSW) or Master of Social Work (MSW). This program will require the student to commit to work for DFYS for a period of time after they obtain their BSW or MSW.

DFYS is currently pursuing dedicated federal training funds available to support the partnership. DHSS policies and procedures outline the department's commitment to ensuring staff have the knowledge and skills necessary to carry out responsibilities on a daily basis, in order to provide effective services.

An adequately funded, consistent training program is critical to child protection by providing more motivated, better-educated, and trained staff necessary to deal with the changing complexities of child protection. A well-trained and stable workforce is essential for effective functioning of child welfare programs. Undermining this infrastructure is the high rate of turnover of child welfare staff nationwide. The average duration of employment has been estimated to be less than two years.¹¹ The on-going drain of staff results in uncovered caseloads, discontinuity of service to families, and increased administrative costs.

We encourage DFYS in its efforts to seek the funding necessary to adequately train staff. We recommend DHSS continue to develop an integrated professional development and training program and pursue federal funding.

¹¹ *Partnership for Child Welfare*, February 1998, Vol. 5, No. 5

Recommendation No. 7

The director of the Division of Family and Youth Services should ensure accurate and timely entry of child protection case information into its management information system.

Child protection data detail is accumulated on DFYS' management information system database known as Prober. Prober is a relational database which stores information about each DFYS client. The information should provide management with useful, accurate information about the families served by DFYS, and virtually eliminate the practice of labor-intensive hand tallies. Due to time constraints on the social workers, lack of adequate training, unclear definitions for various Prober fields, and purported system anomalies, some case information was found to be inaccurate or incomplete.

Areas of concern include:

1. Lack of clear definition for cases not assigned. — DFYS staff incorrectly classified screening outcomes for child protective cases that were not assigned for investigation. Incorrect classification appears to be caused by lack of clear definitions for (1) non-CPS cases; (2) cases with insufficient information; and (3) cases that are not worked due to workload adjustment. Although staff advised us of recent meetings to clarify definitions, we were unable to obtain formal clarification.
2. Inconsistent classification of siblings on reports of arm screen. — DFYS district offices inconsistently account for siblings included on reports of harm received for physical or sexual abuse. One district office enters case information into the Prober ROH screen only for the victim(s) while another district office enters information on the ROH screen for all siblings as well as for the victim(s).
3. Limited fields on Prober. — Although Prober allows for reporting both a primary and secondary type of harm, often DFYS cannot discern which harm category poses more danger to a child (in cases where two or more are present). This is further complicated when the finding on the primary and secondary categories differ. For example, the finding for the primary harm category may be substantiated, while the secondary category is unconfirmed or invalid.
4. Untimely investigation closure on Prober. — At the time of our review, Prober reported 4,500 investigations open longer than 90 days. Our analysis of these open investigations showed that:
 - Investigations were actually closed but due to untimely paperwork, cases were not closed on Prober.

- The district office thought the investigation was closed in Prober and case file documentation was stamped as being entered into Prober. This problem could be the result of inaccurate data entry problem or a problem with the update of the database.
- The case was moved into on-going services however, the investigation paperwork was never completed.

Accurate management information is critical when used to justify additional funding, to assess the need to assign a report for investigation instead of workload adjusting a report, or to provide prior history of a family moving between Alaskan regions.

DFYS management should encourage timely and accurate input and provide clear and consistent definitions to the district offices. We also recommend DFYS continue to pursue development of a Statewide Automated Child Welfare Information System (SACWIS). The SACWIS should be developed in compliance with Title IV-E of the Social Security Act and should implement recommendations set forth by the U.S. DHHS Office of Information System Management.

Recommendation No. 8

The director of DFYS should develop an updated, accurate, and relevant workload measurement model.

Since the mid-1980s DFYS has had in place a workload measurement model which was integrated into the agency's management information system (MIS). The model took the form of a report which summarized the caseload work for each social worker, district office, region, and for the entire agency. Cases assigned to each worker were weighted based on the number of estimated work hours necessary to provide services. Service levels were established for each assigned case based on factors that ostensibly indicated how much social work a given case required. For example, a caseworker handling a case with custody issues will likely require more resources than a case without those circumstances.

Over recent years the workload measurement reports have become progressively irrelevant to agency managers. All managers we interviewed indicated these reports provide limited value in helping manage the caseloads they supervise. The primary complaint both managers and line social workers have about the workload measurement report was that it substantially understates the number of hours involved to carry out various tasks related to a case. For example, a worker is allocated only 5.7 hours for an investigation that does not result in emergency custody and 9.2 hours when emergency custody occurs.

A second problem managers point out is the report excludes cases that were not investigated. These cases, if investigated as required by statute, would substantially increase the investigation workload and increase the on-going workload to some degree. The workload report also fails to accurately measure cases that are prematurely closed in response to workload demands.

From our observations, developed through on-site fieldwork, including four days of "job shadowing" social workers, it appears these criticisms have merit. We noted, especially in rural district offices, the commute time alone may involve more time than allotted for the entire investigation. For the tasks observed, it consistently took workers longer to accomplish the work than what was assigned for that task by the model.

Despite these recognized shortcomings, we still believe the concept and value of such a workload measurement device is important. It does provide management, particularly at the statewide level, a comprehensive way to identify and gauge the distribution of the agency's workload. When developing the budget request for new positions discussed in Recommendation Nos. 1 and 2, we were told agency management relied in large part on the information in the workload measurement reports. Further, the original concept of workload adjusting cases, as discussed in Recommendation No. 4, involved reliance on the information generated by the workload measurement model.

We encourage DFYS management to retain the workload measurement model and take measures to reevaluate and revamp how it measures caseloads. The agency should, as funding permits, conduct new time studies that would serve as a basis for assigning updated, accurate time allotments to various casework tasks. The agency should seek input from both line social workers and supervisory line management in order to assure a revised model is useful and relevant to their needs.

AUDITOR COMMENTS

The child protection responsibilities of the Division of Family and Youth Services (DFYS) are extensive in both scope and impact. Statutorily DFYS is charged with investigating each report of harm it receives that is subject to its jurisdiction. Similar to most public protection statutes the mission of DFYS is stated in very absolutist terms. Due primarily to overall financial constraints, very few public protection agencies, including DFYS have been provided the funding necessary to meet the strict statutory standards.

DFYS, again like many other public protection agencies has to prioritize the use of its resources among the competing demands for its services. From our fieldwork and analysis of the agency's workload compared to current staffing, we have concluded more resources are needed. Particularly, additional social workers and the staff providing direct support to those positions are warranted. It is important to note, our support for 30 - 40 additional positions is not intended to fund the division to meet the absolute standard established in the statutes.

These extra positions may also prove to be needed for only the next three to five years. Clearly some past management decisions - such as carrying an excess of funded but unfilled social worker positions have contributed to the agency's backlog of work. Further, as reflected in our findings and recommendations, we believe the agency must improve its management tools. These would include an updated and relevant workload measurement model, and an improved management information system. Once these tools are available DFYS should conduct an evaluation of overall staff level, as well as the balance between line, management, and administrative staff.

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April 1, 1998

Honorable Randy Phillips
Chairman
Legislative Budget and Audit Committee
State Capitol, Room 103
Juneau, Alaska 99801

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LEGISLATIVE AUDIT

Dear Senator Phillips:

Although I received only this morning the preliminary report of the just completed special audit of the Division of Family and Youth Services (DFYS) I agreed to record a brief response to the recommendations in order to expedite release of the final report tomorrow morning. Obviously, no detailed analysis and response can be prepared in that time. However, recognizing the urgency Committee members feel I agreed to this abbreviated response time.

The audit confirms two key conclusions reached last fall by the Governor's Child Protection Review Team and in other reviews of our child protection system: 1) that additional staff are needed in DFYS to meet the agency's statutory mandate to investigate reports of child abuse and neglect and intervene to protect children; and 2) changes are needed in Alaska's laws to enable child protection to occur earlier and to speed the process of placing children in safe, permanent homes.

I understand that the decision to depart from normal audit procedures and speed the audit of DFYS was prompted by a desire to gain information that will help ensure well-informed legislative decisions on budget requests and child protection legislation currently being considered. I hope the results of this audit will prompt speedy and favorable action on these matters this session.

As you consider these issues, please keep in mind that DFYS does not work in isolation - Alaska's child protection system involves many different agencies. Improving that system - be it through additional resources or statute changes - will require focusing on more than just DFYS.

My brief response to the substance of the draft recommendations is as follows.

Recommendation No. 1

The legislature should consider authorizing and funding additional social worker positions in order for the Division of Family and Youth Services (DFYS) within the Department of Health and Social Services (DHSS) to better meet the agency's statutory mandates.

I agree with auditors that additional staff is required to meet the Department's statutory responsibilities. Last year, DFYS was unable to investigate more than 3,700 reports of harm. That inability left many children at risk. Understaffing also contributed to early case closures, an inability to meet agency casework standards, and delays in taking action required to place children in safe, permanent homes.

As auditors pointed out, the inability to investigate and intervene results in problems becoming chronic and more severe and increases the difficulty and costs of later interventions. Auditors also noted that staff increases requested in the Governor's FY 99 budget represent a conservative estimate of staffing needs and were developed based on methodology known to underestimate actual time required to perform work. I would also point out that the staffing request is far below the additional 75 social workers needed to meet best practice standards as illustrated in the attached briefing paper prepared by the Child Welfare League of America.

Recommendation No. 2

If the Legislature appropriates additional funding for child protection services for FY 99, the commissioner of DHSS should report the effects of those increases to the Legislature.

I believe it is appropriate for the Department to track, analyze, and report on the impact of any additional resources made available to address critical problems identified in Alaska's child protection system. It is important to understand, however, that any new positions authorized in FY 99 will have limited impact by the February 1, 1999 date proposed for such a report. Positions will be phased in over the year and we will not be able to implement a zero tolerance policy - responding to all reports of harm until all positions are filled. Measures of the impact of new staff in achieving desired outcomes for children will truly be meaningful only in the longer term. Similarly, the impact of prevention efforts can only truly be measured in the long term. However, with recognition of these limits, I agree a status report is appropriate.

Recommendation No. 3

The legislature should consider amending relevant child protection statutes in order to provide a basis for better and more consistent casework.

The need for substantial revision of Alaska's child protection laws is clear. I agree with auditors that our laws should be strengthened to allow earlier intervention, shorten delays in placing children in permanent homes, and comply with key elements of new federal law.

Legislation proposed by Governor Knowles is designed specifically to accomplish these needed changes. HB 375 and SB 272 address the weaknesses in our current law, focus our efforts squarely on the best interests of children, and force earlier action by both agencies and parents to resolve conditions that place children at risk or to provide them with safe, permanent alternative homes. These bills would also ensure compliance with the landmark federal Adoption and Safe Families Act of 1997. Under that law, in Alaska, approximately \$10 million in Title IV-E funding hinges upon these statutory changes aimed at improving and speeding child protection.

Recommendation No. 4

The DHSS director of administrative services should ensure Retirement Incentive Program expenditures are paid in accordance with legislative appropriations.

I believe the Department followed both the law and established precedent in liquidating our obligation to employees under the Retirement Incentive Program. It is clear that when eligible employees elect to retire under this program an obligation for the Department is established. The law does not prohibit departments from paying all RIP obligations in a single year and our actions in doing so followed established precedent. The issue of when an obligation begins is open to interpretation and the RIP program is a unique circumstance, leaving room for reasonable disagreement.

By paying full RIP costs in FY 97, we were able increase our ability to fund positions in FY 98 and 99 – avoiding forced vacancies in up to six positions in those years. We felt it would be prudent to meet our obligation early if possible and assure our ability to use future appropriations to fill positions in the following years – rather than maintaining vacancies to fund RIP costs.

Recommendation No. 5

The director of DFYS should develop and implement a consistent policy regarding when ROHs can be left uninvestigated.

I agree with auditors that there should be clear management direction establishing priorities for assigning staff resources to respond to reports of harm when there are short-term conditions that require triage measures on a limited basis. I also agree that this direction should be consistently communicated and followed statewide.

At the same time, I believe it is critical to make a distinction between establishing priorities for short-term delays in response and a systematic policy that leaves some credible reports without the needed response. A delayed response will certainly be necessary in some limited circumstances. However, a policy that systematically leaves reports without a response is unacceptable. I believe auditors agree and acknowledge this in recommending additional staff. I agree, however, that clear direction and consistency is necessary to guide staff in the inevitable circumstances when staff illness or turnover make it impossible to respond to all reports as

quickly as they should be. I also believe that revised criteria to provide guidance in establishing priorities should be developed.

Recommendation No. 6

The director of DFYS should continue efforts to develop an integrated professional development and training program in conjunction with the University of Alaska and pursuance of Title IV-E funding.

I agree entirely that establishing a comprehensive training program is essential to achieving the outcomes we desire in our child protection system. I also agree that doing so in partnership with the University of Alaska provides an opportunity to institutionalize the program, maximize the use of federal funds to support the effort, and to develop an integrated program for professional development.

Recommendation No. 7

The director of the Division of Family and Youth Services (DFYS) should ensure accurate and timely entry of child protection case information into their management information system.

Auditors emphasized the importance of accurate and timely management information and the need to address time constraints, training and definition issues which affect the information used by DFYS to manage, evaluate and plan its programs and services. I agree. We have identified these same issues and are taking actions to address them and continue to pursue development of improved technology to make the agency's management information system a more valuable tool for caseworkers, supervisors, managers, and policy makers.

Recommendation No. 8

The director of DFYS should develop a more updated, accurate, and relevant workload measurement model.

Auditors, like agency staff, noted shortcomings in DFYS workload measurement model that systematically under-report the actual workload of the agency. I agree with auditors that the system must be revised or replaced so that it provides an accurate and reliable method of measuring the agency's workload so that resources can be deployed effectively and resource needs assessed accurately.