



# LAWS OF ALASKA

1990

**Source**

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**Chapter No.**

205

**AN ACT**

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

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

THE ACT FOLLOWS ON PAGE 1, LINE 12

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 28, 1990  
Actual Effective Date: September 26, 1990

## AN ACT

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

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

Sec. 47.17.010. PURPOSE. In order to protect children whose health and well-being may be adversely affected through the infliction, by other than accidental means, of harm through physical injury [ABUSE] or neglect, mental injury, [OR] sexual abuse, [OR] sexual exploitation, or maltreatment, the legislature requires the reporting of these cases by practitioners of the healing arts and others to the department. It is not the intent of the legislature that persons required to report suspected child abuse or neglect under this chapter investigate the suspected child abuse or neglect before they make the required report to the department. Reports must be made when there is a reasonable cause to suspect child abuse or neglect in order to make state investigative and social services available in a wider range of cases at an earlier point in time, to make sure that investigations regarding child abuse and neglect are conducted by trained investigators, and to avoid subjecting a child to multiple interviews about the abuse or neglect [APPROPRIATE PUBLIC AUTHORITIES]. It is the intent of the legislature that, as a result of these reports, protective

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1 services will be made available in an effort to prevent further harm  
2 to the child, to safeguard and enhance the general well-being of the  
3 children in this state, and to preserve family life whenever possible.

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

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

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

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

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

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

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

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

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

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

15 (2) is unable to determine

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

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

19 (3) concludes that the report involves

20 (A) possible criminal conduct under AS 11.41.410 -  
21 11.41.455; or

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

24 \* Sec. 6. AS 47.17.020 is amended by adding new subsections to read:

25 (f) If a law enforcement agency determines that a child has been  
26 abused or neglected and that (1) the harm was caused by a teacher or  
27 other person employed by the school or school district in which the  
28 child is enrolled as a student, (2) the harm occurred during an activ-  
29 ity sponsored by the school or school district in which the child is  
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1 enrolled as a student, or (3) the harm occurred on the premises of the  
2 school in which the child is enrolled as a student or on the premises  
3 of a school within the district in which the child is enrolled as a  
4 student, the law enforcement agency shall notify the chief administra-  
5 tive officer of the school or district in which the child is enrolled  
6 immediately after the agency determines that a child has been abused  
7 or neglected under the circumstances set out in this section, except  
8 that if the person about whom the report has been made is the chief  
9 administrative officer or a member of the chief administrative offi-  
10 cer's immediate family, the law enforcement agency shall notify the  
11 commissioner of education that the child has been abused or neglected  
12 under the circumstances set out in this section. The notification  
13 must set out the factual basis for the law enforcement agency's deter-  
14 mination. If the notification involves a person in the teaching  
15 profession, as defined in AS 14.20.370, the law enforcement agency  
16 shall send a copy of the notification to the Professional Teaching  
17 Practices Commission.

18 (g) A person required to report child abuse or neglect under (a)  
19 of this section who makes the report to the person's job supervisor or  
20 to another individual working for the entity that employs the person  
21 is not relieved of the obligation to make the report to the department  
22 as required under (a) of this section.

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

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

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

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

5 (2) at least once every five years, appropriate in-service  
6 training required by this section as determined by the department or  
7 school district.

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

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

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

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

17 (4) procedures for required notification of suspected abuse  
18 or neglect;

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

21 (6) a brief description of the manner in which cases of  
22 child abuse or neglect are investigated by the department and law  
23 enforcement agencies after a report of suspected abuse or neglect.

24 (d) Each department and school district that must comply with  
25 (b) of this section shall file a current copy of its training curricu-  
26 lum and materials [,] with the Council on Domestic Violence and Sexual  
27 Assault. A department or school district may seek the technical  
28 assistance of the council or the Department of Health and Social  
29 Services in the development of its training program.  
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1 \* Sec. 8. AS 47.17.023 is amended to read:

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

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

11 Sec. 47.17.027. DUTIES OF SCHOOL OFFICIALS. (a) If the depart-  
12 ment or a law enforcement agency provides written certification to the  
13 child's school officials that (1) there is reasonable cause to suspect  
14 that the child has been abused or neglected by a person responsible  
15 for the child's welfare or as a result of conditions created by a  
16 person responsible for the child's welfare; (2) an interview at school  
17 is a necessary part of an investigation to determine whether the child  
18 has been abused or neglected; and (3) the interview at school is in  
19 the best interests of the child, school officials shall permit the  
20 child to be interviewed at school by the department or a law enforce-  
21 ment agency before notification of, or receiving permission from, the  
22 child's parent, guardian, or custodian. A school official shall be  
23 present during an interview at the school unless the child objects or  
24 the department or law enforcement agency determines that the presence  
25 of the school official will interfere with the investigation. Immedi-  
26 ately after conducting an interview authorized under this section, and  
27 after informing the child of the intention to notify the child's  
28 parent, guardian, or custodian, the department or agency shall make  
29 every reasonable effort to notify the child's parent, guardian, or  
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1           custodian that the interview occurred unless it appears to the depart-  
2           ment or agency that notifying the child's parent, guardian, or custo-  
3           dian would endanger the child.

4           (b) A school official who, with criminal negligence, discloses  
5           information learned during an interview conducted under (a) of this  
6           section is guilty of a class B misdemeanor.

7           \* Sec. 10. AS 47.17.040(b) is amended to read:

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

18          \* Sec. 11. AS 47.17.050 is amended to read:

19                Sec. 47,17.050. IMMUNITY. Except as provided in (b) of this  
20                section, a [A] person who, in good faith, makes a report under this  
21                chapter, permits an interview under AS 47.17.027, or [WHO] partici-  
22                pates in judicial proceedings related to the submission of reports  
23                under this chapter, is immune from [ANY] civil or criminal liability  
24                that [WHICH] might otherwise be incurred or imposed for making the  
25                report or permitting the interview, except that a person who knowingly  
26                makes an untimely report is not immune from civil or criminal liabil-  
27                ity based on the delay in making the report.

28          \* Sec. 12. AS 47.17.050 is amended by adding a new subsection to read:

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

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

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

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

12 (2) if medically indicated, have a medical or radiological  
13 examination of the child performed by a person who is licensed to  
14 administer the [A RADIOLOGICAL] examination.

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

16 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who  
17 [KNOWINGLY] fails to comply with the provisions of [OR REFUSES TO  
18 REPORT AS REQUIRED UNDER] AS 47.17.020 or 47.17.023 and who knew or  
19 should have known that the circumstances gave rise to the need for a  
20 report, is guilty of a class B misdemeanor.

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

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

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

28 (3) "child care provider" means an adult individual, in-  
29 cluding a foster parent or an employee of an organization, who  
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1 provides care and supervision to a child for compensation or reim-  
2 bursement;

3 \* Sec. 17. AS 47.17.070(6) is amended to read:

4 (6) "neglect" means the failure by a person responsible for  
5 the child's welfare to provide necessary food, care, clothing, shel-  
6 ter, or medical attention for a child;

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

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

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

18 (11) "criminal negligence" has the meaning given in AS 11.-  
19 81.900;

20 (12) "immediately" means as soon as is reasonably possible,  
21 and no later than 24 hours;

22 (13) "maltreatment" means an act or omission that results in  
23 circumstances in which there is reasonable cause to suspect that a  
24 child may be a child in need of aid, as described in AS 47.10.-  
25 010(a)(2), except that, for purposes of this chapter, the act or  
26 omission need not have been committed by the child's parent, custodi-  
27 an, or guardian;

28 (14) "mental injury" means an injury to the emotional well-  
29 being, or intellectual or psychological capacity of a child, as  
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1           evidenced by an observable and substantial impairment in the child's  
2           ability to function in a developmentally appropriate manner;

3                   (15) "reasonable cause to suspect" means cause, based on all  
4           the facts and circumstances known to the person, that would lead  
5           reasonable person to believe that something might be the case;

6                   (16) "school district" means a city or borough school dis-  
7           trict or regional educational attendance area.  
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