

# **COMMUNITY BASED SUPPORT NETWORK FOR SEX OFFENDERS: A TRAINING MANUAL FOR NON-PROFESSIONALS**

## **Resource Guide for Therapists and Probation Officers**

This resource guide is provided to accompany the training manual for community prevention teams and includes information which will help the probation officer and therapist incorporate the Safety Net concept into working with sex offenders in the community.

### **Introduction**

During fiscal year 1993, the Alaska Department of Corrections was awarded federal assistance by the National Institute of Corrections to develop a training manual for non-professionals who would be members of a community based support network for sex offenders. The manual was to be designed to assist in the training of non-professionals and probation officers in working with and supervising sex offenders in community placement. There is a critical need, especially in more rural communities, to strengthen and supplement the community care component by creating a natural support system to enhance the supervision and treatment needs of the offender.

The "natural supports" model, also referred to as the "safety net" model, is one which is used in the field of developmental disabilities. The concept is to train non-professionals and professionals who are part of the individual's daily support network to become "experts" on that particular individual in order to be able to help monitor the person's care and treatment. The concept has also been used in work with suicidal people in Bush areas in Alaska.

The Alaska DOC endorses the Relapse Prevention model of treatment for sex offenders. This model is based on the philosophy that although there is no cure for sexual deviancy, all offenders are capable of change. Sexually aberrant behavior can be controlled when offenders acquire certain skills which aid them in recognizing the antecedents of sexually deviant behavior and learn alternatives to sexual abusiveness. The focus is on teaching sex offenders to manage and control their behavior. A natural supports program supports and enhances the application of the relapse prevention model in the community by educating significant persons in the offender's community about details of the offender's relapse cycle. External collateral contacts help to provide natural support to the relapse prevention model. Since offenders are not consistently reliable informants in regard to their own relapse processes, having the external supporters to recognize and deal with high-risk behavior should enhance probation and parole supervision and decrease the probability of relapse.

The community network of natural helpers includes professionals such as probation officers, mental health counselors, substance abuse counselors, vocational counselors, educators, village health aides, clergy, etc. In addition non-professional support persons might include family members, village elders, employers, co-workers, friends, etc. Many of these individuals have daily contact with the offenders and are in a position to observe behaviors and attitudes which may signal oncoming relapse. If trained to recognize high risk signs, natural support helpers can assist probation officers and other professionals in the supervision and management of the offender. This would enhance safety in the community and improve the probability of successful community placement.

Completion of the Training Manual for Safety Net Members was a collaborative effort between DOC and the Center for Human Development of the University of Alaska-Anchorage. After the manual was developed, a pilot project was conducted to test its use. Efforts are currently

underway to further develop the use of the safety net concept, as well as the manual, in areas throughout the state. Among other future plans, we intend to establish a pool of Master Trainers who can travel to outlying areas to provide training in the use of the safety net concept with sex offenders in the community.

## **Safety-Net Standards**

The following information is taken from the Standards of Care established for the Sex Offender Treatment Programs operated by the DOC in Alaska:

Sex offenders are typically secretive about the behaviors and thought processes which lead to relapse. Any successful approach to treatment must involve supervision and monitoring as well as other more traditional therapeutic measures. An offender's chances of successfully maintaining a non-assaultive life style in the community can be significantly increased if those individuals in a position to observe the offender are well educated about that offenders high risk signs and relapse process. This "safety-net" of "natural-helpers" can alert professionals who are working with the offender of potential pre-relapse indicators so that intervention can occur more rapidly.

The "safety-net" is defined as a small group of individuals (typically three to five) who are in a position to observe the day to day behaviors of the offender. Safety-net members or "natural-helpers" are trained to recognize pre-relapse signs and to report such signs to various members of the treatment team including therapists and probation officers. Natural helpers may include family, employers, clergy, friends and others who have frequent contact with the offender. They are trained to be "experts" in the relapse process of the particular offender they are helping.

The primary purpose of the safety-net is to aid in the supervision and management of the offender by acting as an "early-warning" system. The safety-net aids the probation officer by providing information which will allow the P.O. to take corrective measures when an offender slips into a pre-relapse cycle.

The following standards must be followed in creating a safety-net:

1. All sex offenders in Community SOTP's should have a safety-net.
2. The minimum size for a safety-net is three persons. There is no maximum size but a typical safety-net would include three to five persons.
3. At least two members of the safety-net must be persons outside the offender's immediate family.
4. Persons on the offender's treatment team can also be members of the safety-net but the safety-net can not be entirely made up of treatment team members.
5. The composition of the safety-net should be representative of the offender's environments in the community. That is, any location in which the offender spends significant time should be represented by a safety-net person from that environment. Examples of such environments include home, work, religious environments, cultural groups, adjunct treatment groups such as AA, etc.
6. Safety-net members must be consistently available to observe the offender. Frequent or prolonged absences may disqualify an individual from being part of the safety-net.

7. All safety-net members must be non-paid volunteers. Safety net members may not accept payment in any form from offenders or others for their involvement in the safety-net.
8. All Safety-net members must undergo training including but not limited to training which employs the DOC safety-net training manual.
9. Objectivity and a willingness to report pre-relapse signs is an essential characteristic of a good safety-net member. Safety-net members must be selected with these traits in mind. Those members who are reluctant to report or who are non-objective observers are subject to removal from the safety-net.
10. The Field Probation Officer must give approval for all safety-net members.
11. The removal of a safety-net member may be recommended by the treatment team or the Field Probation Officer, but the final decision to remove a member is made by the Probation Officer. All removals are subject to review by the Criminal Justice Planner for the Division of Institutions.

### **Violations of Conditions of Probation/Parole (Technical Violations)**

When the safety-net concept works as intended, a number of violations of the conditions of probation/parole may be reported. These may vary in seriousness and present different degrees of potential risk to the community. It is DOC's hope that offenders may be maintained safely in the community and the Department recognizes the importance of dealing with technical violations quickly and appropriately. Guidelines for Handling Violations of Conditions of Probation/Parole are provided later in this document. These guidelines assist the Field Probation Officer in evaluating the offender's potential danger to the community and in determining the appropriateness of various sanctions. These sanctions range from verbal and written warnings to recommendations for reincarceration. A number of therapeutic interventions lie in between these extremes.

The supervision of the sex offender is an essential part of the treatment protocol. All contractors and other approved providers must report technical violations to the Field Probation Officer as soon as possible after becoming aware of such violations.

### **Some Practical Considerations**

In working on this project, particularly when we were in the process of operationalizing the manual and the concepts behind it, several practical problems arose that needed to be addressed in order for the process to continue. In an effort to help those who decide to try the concept, we will share some of these:

Planning Time: It may take a month lead time for the preparatory work necessary to successfully train the safety net team members. You will have to juggle schedules, often with several people who have varying work schedules. It seems best to have several time options available. In some cases, you may need to have more than one training session in order to train all of the members. Additionally, there may be cases where you will want to meet with a given team member individually.

Training Time: It will take one or two meetings of the team to fully train the members, dependent upon the degree to which the members become comfortable with the material. Each session should run for two hours and can be held on separate days/weeks.

Team Member Selection: It is important to select team members who are in a position to have frequent contact with the offender.

There may be times when someone in the offender's life could benefit from the information provided in the manual, although they do not plan to be an active member of the Safety Net Team. For example, when the perpetrator is a child molester, it might be good for the parents of his victim to have the training, although you should probably not include these people in the safety net team.

Relapse Prevention Plan: Therapists may wish to include a copy of the offender's R.P.P. for the safety net members in the training manual.

# GLOSSARY

## A

**Abstinence** - Abstinence means to abstain or say “No” to something. For sex offender’s abstinence means to say “no” to and stay away from deviant sexual fantasies, thoughts about abusing someone, materials, like pornography that will lead the offender to commit a sexual offense.

**Aftercare Plan** - A program for dealing with problem areas the offender may have when released from prison.

**Approved Provider** - A therapist who has received the necessary training and experience to provide intervention for sexual offenders. The Department of Corrections must okay the Approved Provider

**Arousal Control** - Arousal is an urge or feeling about something or someone. It is possible for a person to control arousal by controlling the thoughts, feelings, and behaviors associated with the arousal. Some of the ways of teaching control of sexual arousal are covert sensitization, masturbatory satiation, masturbatory reconditioning, and penile plethysmography. Only the Approved Provider should use these techniques with the offender.

**Assault Cycle** - A chain of events that lead to a reoffense. A cycle is like a rotating circle and occurs when the person behaves in the same pattern again and again. The circle is linked together like the links of a chain. Each link is a type of thought, feeling, or behavior that the person experiences. The assault cycle is the list of behaviors or links that lead the offender toward an assault. Sometimes the assault may be a physical assault, a verbal assault, or a sexual assault.

**Assessment** - An evaluation or judgment made by a person or persons.

## B

**Blockage** - When the offender has normal sexual urges but something stands in the way of being able to express them normally. Example: being brought up to believe masturbation is immoral or wrong, and the only way to meet sexual needs is with a partner.

## C

**Case Study** - An example.

**Condition Violations** - Breaking any parole or probation conditions.

**Coping Response** - A coping response is a thought, a feeling, or a behavior that helps the offender to move away from a place of risk and towards abstinence. A coping response can also be called a corrective response. Examples of coping responses are: the offender said no to using alcohol; the offender said no to drinking alcohol with his father or mother. Many offenders use coping responses that do not work. For example, saying no to alcohol, but saying yes to marijuana. A true coping response would be to say no to both alcohol and marijuana.

**Community Based Treatment** - Therapy available in the community for released sexual offenders.

**Community Safety Net Team** - Any number of people that agree to work together to help a sexual offender keep from committing another sexual abuse crime. Can be either professional or

non-professional. Examples: Probation Officer, therapist, village elder, priest, school teacher, or any concerned community member.

**Community Treatment** - Therapy available in the community for released sexual offenders.

**Confront** - To come face to face with (with all the evidence).

**Coping Response** - Actions, or steps, a sex offender can take to help him deal with relapse behavior.

**Corrective Coping Response** - Any intervention that helps the offender restore his sense of self-control over his thinking and behavior and return to a place of safety. Examples: saying no to drugs and alcohol; positive self-talk; refusing to baby-sit.

**Curfew** - An order or regulation that requires the offender to leave the streets at a certain hour.

## D

**Dangerous Situations** - A dangerous situation is a kind of thinking, or a kind of feeling, or a place or event that lowers the control of the offender has over himself and increases the risk or chance of a lapse.

**Defense Mechanism** - A defense mechanism is a way the offender tries to avoid dealing with truth or reality.

**Deviant Behavior** - Behavior not normally accepted in a community. Example: having sex with children is deviant behavior because it is not acceptable in the community and it is against the law.

## E

**Emotional Needs** - A psychological feeling that needs to be relieved; usually a feeling of arousal or agitation.

**Empathy** - Empathy is being aware of and concerned about the feelings and events that are happening for another person. To have empathy, a person should be able to see the victim as a whole human being who can feel pain, hurt, happiness, joy, confusion, fulfillment and shame. Sexual offenders do not show empathy because they think more about themselves than they do about the victim.

**Enabler** - An example of an enabler is someone who gives a person alcohol when they know that the person is more likely to reoffend when they drink. An example of someone who "enables" a sexual offender would be someone who failed to report the offender's lapse or relapse behavior. This would enable the person to continue the behavior.

**Exhibitionist** - A person who has a tendency to publicly expose their sex organs; indecent exposure of the genitals for sexual arousal.

## F

**Felony** - A crime more serious than a misdemeanor.

**Field Probation Officer** - A professional person that supervises the offender in the community, balancing the needs of the community, the offender, and the requirements of the court.

## G

**Gender** - Either of the male or female sex.

**Grooming Behavior** - To get into readiness for sexual abuse; to preparing a future victim so they will allow sexual contact to occur. Grooming is like playing with someone to get them to like you and gain their trust, except that the person intends to use the victim for sex. Trust is important to the offender so that the victim will not tell anyone what is going on. Examples of grooming: Giving alcohol to an underage person so they will allow sex to occur; giving toys or privileges to children for the same reasons.

## **H**

**High Risk Behaviors** - Circumstances that threaten the offender's sense of self-control. Examples: substance abuse; hanging around a potential victim; and social isolation.

## **I**

**Inappropriate Sexual Behavior** - Any sexual action that involves unwilling partners or that presents a danger to the individual or others.

**Incarceration** - To be in prison; subject to being confined.

**Incest** - Sexual intercourse between persons so closely related that they are forbidden by law to marry; the crime of participating in such a relationship.

**Intervene** - To come between or stop some action for protection of others.

**Intervention** - to interfere in another person's behavior to prevent an action or to maintain a condition; to come between.

Example: to stop high risk behavior and possible sexual abuse.

**Institutional Probation Officer** - The person who supervises the offender while the offender is in prison.

**Institutional Program of Treatment** - Training and therapy that an offender attends while in prison.

## **L**

**Lapse** - To sink or slip gradually; an emotion, fantasy, thought, or behavior that is part of an offender's relapse pattern. Lapses are not sex offenses, but are high risk behaviors that can lead to a sexual offense.

**Lapse Contract** - This is a signed paper between the offender and the Approved Provider that says how much the offender is allowed to lapse or slip. The agreement is so that the offender can learn how to manage himself appropriately. The contract talks about waiting before starting to lapse, that the offender must report the lapse to the Approved Provider and the Probation Officer immediately, and the consequences for slipping.

## **M**

**Manipulate** - To manage or control another person or a situation for your own benefit or personal gain.

**Masturbation** - Stimulating of the sex organs for pleasure. Playing with yourself.

**Milieu** - Surroundings; environment. Also known as program or treatment milieu . Milieu is an approach to treatment which is highly structured and offers the program participants a variety of

treatment activities. Offenders are housed together in a treatment setting and each hour of the day is accounted for in the program structure and the program participant's personal schedule.

**Minimize** - To represent as having the least degree of importance of value.

**Misdemeanor** - A crime less serious than a felony.

**N**

**Notify** - To inform or make something known.

**O**

**Observable Cycle** - Behavior that can be seen by others that is part of a pattern of behaviors; Examples: going to strip joints, dancing with intoxicated women, hanging around children's play areas.

**Observable Signs of Relapse** - Behaviors that can be seen as warning signs and signal the need for a behavior change. Example: hanging out in video arcades where young children also hang out; walking through school yards; buying pornography.

**Offender** - Lawbreaker. A person who has committed a crime.

**P**

**Parole** - Early conditional release where the offender has to follow conditions set by the parole board.

**Pedophile** - A sexual deviant who prefers children as their sexual object.

**Pornography** - Stories, pictures, and movies that are intended to arouse sexual excitement.

**Probation** - A period of supervision that is imposed by the court at the time of sentencing. Probation may occur instead of jail time, or in addition to jail.

**Profanity** - Swearing or cursing.

**Professional** - A person employed and specially trained to work with offenders.

**R**

**Rape** - Sexual intercourse with a person without their consent.

**Recidivism** - A tendency to go back to a previous condition or behavior; relapse into criminal behavior.

**Rehabilitation** - To restore a person to a healthy mental and moral state through treatment and training.

**Reinforcer** - Any event that increases the strength of the behavior it follows. Can be a reward, or the removal of a discomfort (like prison).

**Reinforcement** - The procedure of increasing the strength of a behavior by following it with a reward (reinforcing event.)

**Relapse** - The offender slips back into behaviors that lead to crime.



**Relapse Behavior** - Conduct that shows the offender is slipping back into offensive behavior. To a sex offender this means to commit a sexual offense. To an alcoholic this means to have a break.

**Relapse Pattern** - Certain risky behaviors repeated by the offender before committing a crime.

**Relapse Prevention Plan** - A program to keep an offender from slipping back into criminal behaviors.

**Restitution** - Making good of something, or giving something equal for some injury.

## S

**Self-esteem** - Satisfaction with oneself.

**Sexual Arousal** - An urge or feeling about something or someone that is sexual. Most of the time a person will think that these feelings are exciting and feel good. Some people will find these feelings when they look at or touch someone in a sexual way, such as in masturbation.

**Sexual Assault** - To violently or forcefully have, or involve sex, by forcing, or manipulating another person.

**Sentencing** - Punishment determined or declared by the court.

**Stressors** - Any event or situation that causes stress.

**Stress Reactions** - Physical or emotional difficulty that can result from an uncommon experience.

## T

**Thinking Error** - A distorted way of thinking that allows a criminal lifestyle to continue. When a person thinks about an experience that has happened to them, or thinks about something they have seen or felt, the person makes a decision on what the experience means. A thinking error occurs when the person makes decisions about the meaning that are not correct. Most sex offenders have distorted errors in their thinking.

**Treatment Intervention** - Therapy a sexual offender receives from an Approved Provider.

**Treatment Model** - A description of the kinds of things that you want to see the person do in the future.

## V

**Victim** - A person that is tricked, injured, destroyed, subject to hardship, or mistreatment.

**Victim's Resistance** - A victim will resist or fight against being manipulated or used by an offender. Some offenders become very excited and aroused when the victim resists or fights against them. Other offenders do not want the victim to fight or resist.

## W

**Warning Sign** - A behavior that gives notice beforehand that a relapse is about to occur; a behavior that calls attention to potential sexual abuse.

## **SEXUAL OFFENSES STATUTES**

The following section contains descriptions of the various laws which define the crime of sexual assault. This material is from Chapter 11, Article 4 of the Alaska Statutes.

### Section:

- 410. Sexual assault in the first degree
- 420. Sexual assault in the second degree
- 425. Sexual assault in the third degree
- 432. Defenses
- 434. Sexual abuse of a minor in the first degree
- 436. Sexual abuse of a minor in the second degree
- 438. Sexual abuse of a minor in the third degree
- 440. Sexual abuse of a minor in the fourth degree
- 445. General provisions
- 450. Incest
- 455. Unlawful exploitation of a minor
- 460. Indecent exposure
- 470. Definitions

## Detailed Description

### **Section 11.41.410 Sexual assault in the first degree.**

- (a) A person commits the crime of sexual assault in the first degree if,
- (1) being any age, the defendant engages in sexual penetration with another person without consent of that person;
  - (2) being any age, the defendant attempts to engage in sexual penetration with another person without consent of that person and causes serious physical injury to that person;
  - (3) being over the age of 18, the defendant engages in sexual penetration with another person
    - (A) who the defendant knows is mentally incapable and
    - (B) who is entrusted to the defendant's care
      - (i) by authority of law; or
      - (ii) in a facility or program that is required by law to be licensed by the Department of Health and Social Services.
- (b) Sexual assault in the first degree is an unclassified felony and is punishable as provided in Alaska Law.

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\*\*\*This law protects against unconsented penetration or attempted penetration for any age.

\*\*\*This law protects against a person over 18 having sex with someone who is in a foster care situation or is in a state facility

\*\*\*This law also protects the persons who are mentally incapable

### **Section 11.41.420. Sexual assault in the second degree.**

- (a) an offender commits the crime of sexual assault in the second degree if
- (1) the offender engages in sexual contact with another person without consent of that person;
  - (2) being over the age of 18, the offender engages in sexual contact with a person
    - (A) who the offender knows is mentally incapable; and
    - (B) who is entrusted to the offender's care
      - (i) by authority of law, or
      - (ii) in a facility or program that is required by law to be licensed by the Department of Health and Social Services; or
  - (3) being over the age of 18, the offender engages in sexual penetration with a person who the offender knows is
    - (A) mentally incapable; or
    - (B) incapacitated.
- (b) sexual assault in the second degree is a class B felony.

### **Section 11.41.425. Sexual assault in the third degree.**

- (a) an offender commits the crime of sexual assault in the third degree if being over the age of 18, the offender engages in sexual contact with a person who the offender knows is
- (1) mentally incapable; or
  - (2) temporarily incapable of appraising the nature of the person's conduct and is physically unable to express unwillingness to act.
- (b) Sexual assault in the third degree is a class C felony.

### **Section 11.41.432. Defenses.**

- (a) It is a defense to a crime charged under AS 11.41.410. a) (3), 11.41.420 (La) (2), 11.41.420. (a) (3), or 11.41.425. that the offender is
- (1) mentally incapable; or

(2) married to the person and neither party has filed with the court for a separation, divorce or dissolution of the marriage.

(b) except as provided in (a) of this section, in a prosecution under AS 11.41.410, or 11.41.420, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant. (§ 4 ch 96 SLA 1988; am § 27 ch 50 SLA 1989).

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\*\*\*This law protects spouses from unconsented sexual attempts at penetration.

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**Section 11.41.434. Sexual abuse of a minor in the first degree.**

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

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

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

(A) is entrusted to the offender's care by authority of law; or

(B) is the offender's son or daughter, including an illegitimate or adopted child, or stepchild;

or

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

(A) residing as a member of the social unit in the same household as the offender and the offender is in a position of authority over the victim;

or

(B) temporarily entrusted to the offender's care.

Sexual abuse of a minor in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

(b) Sexual abuse of a minor in the first degree is an unclassified felony and is punishable as provided in Alaska Law.

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**Section 11.41.436. Sexual abuse of a minor in the second degree.**

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

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

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

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

(A) is entrusted to the offender's care by authority of law; or

(B) is the offender's son or daughter, including an illegitimate or adopted child, or a stepchild;

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

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

(A) residing as a member of the social unit in the same household as the offender and the offender is in a position of authority over the victim; or

(B) temporarily entrusted to the offender's care.

(b) Sexual abuse of a minor in the second degree is a class B felony.

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**Section 11.41.438. Sexual abuse of a minor in the third degree.**

- (a) an offender commits the crime of sexual abuse of a minor in the third degree if, being 16 years of age or older, the offender engages in sexual contact with a person who is 13, 14, or 15 years of age and at least three years younger than the offender.
- (b) Sexual abuse of a minor in the third degree is a class C felony.

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**Section 11.41.440. Sexual abuse of a minor in the fourth degree.**

- (a) An offender commits the crime of sexual abuse of a minor in the fourth degree if, being under 16 years of age, the offender engages in sexual penetration or sexual contact with a person who is under 13 years of age and at least three years younger than the offender.
- (b) Sexual abuse of a minor in the fourth degree is a class A misdemeanor.

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**Section 11.41.445. General Provisions**

- (a) In a prosecution it is an affirmative defense that, at the time of the alleged offense, the victim was the legal spouse of the defendant unless the offense was committed without the consent of the victim.
- (b) In a prosecution, whenever a provision of law defining an offense depends upon a victim's being under a certain age, it is an affirmative defense that, at the time of the alleged offense, the defendant reasonably believed the victim to be that age or older, unless the victim was under 13 years of age at the time of the alleged offense.

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**Section 11.41.450. Incest.**

- (a) a person commits the crime of incest if, being 18 years of age or older, that person engages in sexual penetration with another who is related, either legitimately or illegitimately, as
  - (1) an ancestor or descendant of the whole or half blood;
  - (2) a brother or sister of the whole or half blood; or
  - (3) an uncle, aunt, nephew, or niece by blood.
- (b) Incest is a class C felony.

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**Section 11.41.455. Unlawful exploitation of a minor.**

- (a) a person commits the crime of unlawful exploitation of a minor if, in the state and with the intent of producing a live performance, film, photograph, negative, slide, book, newspaper, magazine, or other printed material that visually depicts the conduct listed in (1) - (6) of this subsection, the person knowingly induces or employs a child under 18 years of age to engage in, or photographs, films, or televises a child under 18 years of age engaged in, the following actual or simulated conduct:
  - (1) sexual penetration
  - (2) the lewd touching of another person's genitals, anus, or breast;
  - (3) the lewd touching by another person of the child's genitals, anus, or breast;
  - (4) masturbation;
  - (5) bestiality; or
  - (6) the lewd exhibition of the child's genitals.
- (b) A parent, legal guardian, or person having custody or control of a child under 18 years of age commits the crime of unlawful exploitation of a minor if, in the state, the person permits the child to engage in conduct described in (a) of the section knowing that the conduct is intended to be used in producing a live performance, film, photograph, negative, slide, book, newspaper, magazine, or other printed material that visually depicts the conduct.
- (c) Unlawful exploitation of a minor is a class B felony.

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**Section 11.41.460. Indecent Exposure.**

- (a) An offender commits the crime of indecent exposure if the offender intentionally exposes the offender's genitals to another person with reckless disregard for the offensive, insulting, or frightening effect the act may have on that person.
- (b) Indecent exposure before a person under 16 years of age is a class A misdemeanor. Indecent exposure before a person 16 years of age or older is a class B misdemeanor.

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**Section 11.41.470. Definitions.**

(1) Incapacitated. Temporarily incapable of appraising the nature of one's own conduct and physically unable to express unwillingness to act;

(2) Mentally incapable. Suffering from a mental disease or defect that renders the person incapable of understanding the nature or consequences of the person's conduct, including the potential for harm to that person;

(3) Victim. The person alleged to have been subjected to sexual assault in any degree or sexual abuse of a minor in any degree;

(4) Without consent. A person that

(A) with or without resisting, is coerced by the use of force against a person or property, or by the express or implied threat of death, imminent physical injury, or kidnapping to be inflicted on anyone; or

(B) is incapacitated as a result of an act of the defendant.

## CHILD PROTECTION STATUTES

The following section contains descriptions of the child protection laws, taken from Chapter 17 of the Alaska Statutes. The purpose of these statutes are to protect children from harm through abuse or neglect. The statutes detail who is required to report and particular situations when professionals are required to make reports. These statutes also include information on termination of parental rights and the immunity from prosecution of those who make reports.

### Section:

- 10. Purpose
- 20. Persons required to report
- 22. Training
- 23. Reporting regarding child pornography
- 25. Duties of public authorities
- 27. Duties of school officials
- 30. Action on reports; termination of parental rights
- 40. Central registry; confidentiality
- 50. Immunity
- 60. Evidence not privileged
- 64. Photographs and x-rays
- 68. Penalty for failure to report
- 69. Protective injunctions
- 290. Definitions

## Detailed Description

### **Section 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 or neglect, mental injury, sexual abuse, 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 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. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to

- (1) prevent further harm to the child;
- (2) safeguard and enhance the general well-being of children in this state; and
- (3) preserve family life unless that effort is likely to result in physical or emotional damage to the child.

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### **Section 47.17.020. Persons required to report.**

(a) The following 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 shall immediately report the harm to the nearest office of the department:

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

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

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

(d) This section does not require a religious healing practitioner to report as neglect of a child the failure to provide medical attention to the child if the child is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church of denomination.

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

- (1) concludes that the harm was caused by a person who is not responsible for the child's welfare;
- (2) is unable to determine
- (A) who caused the harm to the child; or



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

(3) concludes that the report involves

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

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

(f) If a law enforcement agency determines that a child has been abused or neglected and that (1) the harm was caused by a teacher or other person employed by the school or school district in which the child is enrolled as a student, (2) the harm occurred during an activity sponsored by the school or school district in which the child is enrolled as a student, or (3) the harm occurred on the premises of the school in which the child is enrolled as a student or on the premises of a school within the district in which the child is enrolled as a student, the law enforcement agency shall notify the chief administrative officer of the school or district in which the child is enrolled immediately after the agency determines that a child has been abused or neglected under the circumstances set out in this section, except that if the person about whom the report has been made is the chief administrative officer or a member of the chief administrative officer's immediate family, the law enforcement agency shall notify the commissioner of education that the child has been abused or neglected under the circumstances set out in this section. The notification must set out the factual basis for the law enforcement agency's determination. If the notification involves a person in the teaching profession, as defined in AS 14.20.370, the law enforcement agency shall send a copy of the notification to the Professional Teaching Practices Commission.

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

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**Section 47.17.022. Training.**

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

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

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

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

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

(1) laws relating to child abuse and neglect;

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

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

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

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

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

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

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**Section 47.17.023. Reports regarding child pornography.**

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

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**Section 47.17.025. Duties of public authorities.**

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

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

(1) the names and addresses of the child and the child's parent or other persons responsible for the child's care, if known;

(2) the age and sex of the child;

(3) the nature and extent of the harm to the child from abuse;

(4) the name and age and address of the person known or believed to be responsible for the harm to the child from abuse, if known;

(5) information that the department believes may be helpful in establishing the identity of the person believed to have caused the harm to the child from abuse.

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**Section 47.17.027. Duties of school officials.**

(a) If the department or a law enforcement agency provides written certification to the child's school officials that

(1) there is reasonable cause to suspect that the child has been abused or neglected by a person responsible for the child's welfare or as a result of conditions created by a person responsible for the child's welfare;

(2) an interview at school is a necessary part of an investigation to determine whether the child has been abused or neglected; and

(3) the interview at school is in the best interests of the child, school officials shall permit the child to be interviewed at school by the department or a law enforcement agency before notification of, or receiving permission from, the child's parent, guardian, or custodian. A school official shall be present during an interview at the school unless the child objects or the department or law enforcement agency determines that the presence of the school official will interfere with the investigation. Immediately after conducting an interview authorized under this section, and after informing the child of the intention to notify the child's parent, guardian, or custodian, the department or agency shall make every reasonable effort to notify the child's parent, guardian, or custodian that the interview occurred unless it appears that the department of agency that notifying the child's parent, guardian, or custodian would endanger the child.

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

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**Section 47.17.030. Action on reports; termination of parental rights.**

(a) If a child, concerning whom a report of harm is made, is believed to reside within the boundaries of a local government exercising health functions for the area in which the child is believed to reside, the department may, upon receipt of the report, refer the matter to the appropriate health or social services agency of that local government, 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.

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

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

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

(e) In all actions taken by the department or a health and social services agency of a local government under this chapter that result in a judicial proceeding, the child shall be represented by a guardian ad litem in that proceeding, the child shall be represented by a guardian ad litem in that proceeding. Appointment of a guardian ad litem shall be made in accordance with AS 25.24.310.

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**Section 47.17.040. Central registry; confidentiality.**

(a) The department shall maintain a central registry of all investigation reports but not of the reports of harm.

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

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**Section 47.17.050. Immunity.**

(a) Except as provided in (b) of this section, a person who, in good faith, makes a report under this chapter, permits an interview under AS 47.17.027, or participates in judicial proceedings related to the submission of reports under this chapter, is immune from civil or criminal liability that might otherwise be incurred or imposed for making the report of permitting the interview, except that person who knowingly makes an untimely report is not immune from civil or criminal liability based on the delay in making the report.

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

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**Section 47.17.060. Evidence not privileged.**

Neither the physician-patient nor the husband-wife privilege is a ground for excluding evidence regarding a child's harm, or its cause, in a judicial proceeding related to a report made under this chapter.

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**Section 47.17.064. Photographs and x-rays.**

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

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

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

(b) The department of a practitioner of the healing arts shall notify the parents, guardian, or custodian of a child as soon as possible after taking action under (a) of this section with regard to the child.

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**Section 47.17.068. Penalty for failure to report.**

A person who fails to comply with the provisions of AS 47.17.020 or 47.17.023 and who knew or should have known that the circumstances gave rise to the need for a report, is guilty of a class B misdemeanor.

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**Section 47.17.069. Protection injunctions.**

(a) A court may enjoin or limit a person from contact with a child if the attorney general establishes by a preponderance of the evidence that the person

(1) has sexually abused a child;

(2) has physically abused a child; or

(3) has engaged in conduct that constitutes a clear and present danger to the mental, emotional, or physical welfare of a child.

(b) This section does not limit the authority of the attorney general of the court to act to protect a child.

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**Section 47.17.290. Definitions.**

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

(2) “child abuse or neglect” means the physical injury or neglect, mental injury, sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by a person under circumstances that indicate that the child’s health or welfare is harmed or threatened thereby; in this paragraph, “mental injury” means an injury to the emotional well-being, or intellectual or psychological capacity of a child, as evidenced by an observable and substantial impairment in the child’s ability to function;

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

(4) “criminal negligence” has the meaning given in AS 11.81.900;

(5) “department” means the Department of Health and Social Services;

(6) “immediately” means as soon as is reasonable possible, and no later than 24 hours;

(7) “institution” means a private or public hospital or other facility providing medical diagnosis, treatment, or care;

(8) “maltreatment” means an act or omission that results in circumstances in which there is reasonable cause to suspect that a child may be a child in need of aid, as described in AS 47.10.010(a)(2), except that, for purposes of this chapter, the act or omission need not have been committed by the child’s parent, custodian, or guardian;

(9) “mental injury” means an injury to the emotional well-being, or intellectual or psychological capacity of a child, as evidenced by an observable and substantial impairment in the child’s ability to function in a developmentally appropriate manner;

(10) “neglect” means the failure by a person responsible for the child’s welfare to provide necessary food, care, clothing, shelter, or medical attention for a child;

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

(12) “person responsible for the child’s welfare” means the child’s parent, guardian, foster parent, a person responsible for the child’s care at the time of the alleged child abuse or neglect, or a person responsible for the child’s welfare in a public or private residential agency or institution;

(13) “practitioner of the healing arts” includes chiropractors, mental health counselors, dental hygienists, dentists, health aides, nurses, nurse practitioners, occupational therapists,

occupational therapy assistants, optometrists, osteopaths, naturopaths, physical therapists, physical therapy assistants, physicians, physician's assistants, psychiatrists, psychologists, psychological associates, audiologists licensed under AS 08.11, hearing aid dealer licensed under AS 08.55, religious healing practitioners, acupuncturists, and surgeons;

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

(15) "school district" means a city or borough school district or regional educational attendance area.

(16) "sexual exploitation" includes

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

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