

CSHB 343 (HSS): Disclosure of Children's Information

Side-by-Side Comparison of AS 47.12.315

Public Disclosure of information in department records relating to certain minors

Current Law	How HB 343 Would Change It
<p>Information shall be disclosed for a minor at least 13 years old, who has a history of an informal adjustment action for any offense referred after 9/2/92, and an adjustment plan is being implemented following a current referral for one of the following offenses:</p> <ol style="list-style-type: none">1. A crime against a person punishable as a felony;2. A crime in which the minor employed a deadly weapon, as that term is defined in AS 11.81.900(b), in committing the crime;3. Arson under AS 11.46.400 – 11.46.4104. Burglary under AS 11.46.3005. Distribution of child pornography under AS 11.61.125;6. Promoting prostitution in the first degree under AS 11.66.110; or7. Misconduct Involving a Controlled Substance under AS 11.71 involving the delivery of a controlled substance or the possession of a controlled substance with intent to deliver, other than an offense under AS 11.71.040 or 11.71.050.	<p>The proposal requires that the minor alleged to have committed one of the listed offenses be petitioned to a court on the offense, and that the court find probable cause that the offense was committed, for information on the offense to be publicly disclosable.</p> <p>The proposal changes #2 of the enumerated offenses from “a crime in which the minor employed a deadly weapon,” to “Misconduct Involving Weapons in the First through Fifth Degrees.” NOTE: the H-HSS Committee amended the bill to <u>exclude</u> Misconduct Involving Weapons in the Fifth Degree.</p>
<p>Information MAY be disclosed for a minor at least 13 years of age who knowingly fails to comply with all the terms of an informal adjustment for any offense referred after 9/2/92.</p>	<p>The proposal does not allow for discretionary public disclosure of information when minors fail to comply with terms of an informal adjustment.</p>
<p>Information shall be disclosed for a minor when the Department has filed a petition for adjudication, the minor was at least 13 years old at the time of the offense, and the petition is filed for any offense as a result of the minor's failure to comply with terms of an informal adjustment plan.</p>	<p>The proposal requires that, for information on an offense to be disclosed publicly, a minor must be alleged to have committed one of the “enumerated offenses” above (1-7); the offense must be petitioned to a court; and the court must find probable cause. Previous noncompliance with an informal adjustment plan does not determine whether the information is disclosable.</p>
<p>Information shall be disclosed for a minor when the Department has filed a petition for adjudication, the minor was at least 13 years old at the time of the offense, the offense occurred after 1/1/98, the offense resulted in a court order, and the minor violated a condition of the court order.</p>	<p>The proposal requires that, for information on an offense to be disclosed publicly, a minor must be alleged to have committed one of the “enumerated offenses” above (1-7); the offense must be petitioned to a court; and the court must find probable cause. A violation of a court order connected to the petitioned offense does not determine whether the information is disclosable.</p>

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<p>Information shall be disclosed for a minor at least 13 years old and a petition for adjudication is filed for commission of:</p> <ol style="list-style-type: none">1. An offense against a person punishable as a felony2. An offense in which the minor employed a deadly weapon, as that term is defined in AS 11.81.900(b), in committing the crime;3. Arson under AS 11.46.400 – 11.46.4104. Burglary under AS 11.46.3005. Distribution of child pornography under AS 11.61.125;6. Promoting prostitution in the first degree under AS 11.66.110; or7. Misconduct Involving a Controlled Substance under AS 11.71 involving the delivery of a controlled substance or the possession of a controlled substance with intent to deliver, other than an offense under AS 11.71.040 or 11.71.050.	<p>The proposal requires that a court must find probable cause on a petition filed on one of these “enumerated offenses (1-7).</p> <p>The proposal also changes #2 of the enumerated offenses from “a crime in which the minor employed a deadly weapon,” to “Misconduct Involving Weapons in the First through Fifth Degrees.” NOTE: the H-HSS Committee amended the bill to <u>exclude</u> Misconduct Involving Weapons in the Fifth Degree from public disclosure.</p>
<p>Information shall be disclosed for a minor at least 16 years old and a petition is filed for commission of a felony and the minor has previously been adjudicated or convicted of a felony offense.</p>	<p>The proposal requires that, for information on an offense to be disclosed publicly, a minor must be alleged to have committed one of the “enumerated offenses” above (1-7); the offense must be petitioned to a court; and the court must find probable cause that the minor committed the offense. Previous adjudication on a felony offense does not determine whether or not information on one of these offenses is disclosable.</p>
<p>Information to be disclosed shall include the name of the minor, the name or names of the minor's parent or guardian, the alleged offense exclusive of information that identifies the victim, and, when available, the outcomes of the proceeding in the court when a petition is filed or the action required by the Dept.</p>	<p>No change.</p>
<p>If the agency or a court determines that the matter should be dismissed or minor is not delinquent and case dismissed, the minor may request that the department disclose the disposition of the matter.</p>	<p>The Department will release most current outcome information at the time of the request.</p>

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When disclosing information under this statute, the Dept. may not disclose the name of an out-of-home care provider with whom the minor was living at the time the minor was alleged to have committed the offense if the minor had been placed in out-of-home care with that provider on other than a permanent or long-term basis.	No change under the proposal except to move the final phrase: "if the minor had been placed in out-of-home care with that provider on other than a permanent or long-term basis." A new subsection (h) defines the out-of-home care providers who provide care on other than a permanent or long-term basis and their names are not to be disclosed.
If the Dept. maintains the information to be disclosed by electronic means that can be recovered from a computer data base, the Dept. may disclose the info in that medium.	No change under the proposal except to add the phrase "or other state or municipal agency" to this subsection.
The Dept. may not release information about a minor under this section if the offense allegedly committed by the minor occurred before 1/1/98. The authority to release information under this section is limited to 5 years from the date the Dept. is first authorized to make the disclosure. However, the limitation of this section does not apply if the Dept. determines that during the 5-year period the minor knowingly failed to make all restitution payments or committed a felony.	The Dept. may not release information under this section after 5 years from the date the department or other agency is first required or authorized to make the disclosure under this section.
When disclosure of information is dependent on the minor's previous conviction or adjudication as a delinquent, or on the minor's failure to comply with all terms required or imposed, the Dept. shall consider the minor's previous conviction or delinquency adjudication, or a term or condition required or imposed on the minor, that occurred before 9/2/97, but may not consider a conviction or adjudication that occurred, or a term or condition that was required or imposed, earlier than five years before 9/2/97.	Since the proposal does not require a previous adjudication or failure to comply with an adjustment for information to be disclosable, this subsection will not apply.