

SENATE CS FOR CS FOR HOUSE BILL NO. 6(FIN) am S

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 5/1/97

Offered: 4/30/97

Sponsor(s): REPRESENTATIVES KELLY, Therriault, Vezey, Ogan, Dyson, Phillips, Ryan, Rokeberg, Kemplen, James

SENATORS Halford, Taylor, Leman, Sharp, Mackie, Torgerson, Green, Phillips, Miller

A BILL

FOR AN ACT ENTITLED

**1 "An Act relating to minors and amending laws relating to the disclosure of
2 information relating to certain minors; and amending Rule 3(c), Alaska
3 Delinquency Rules."**

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

5 * Section 1. AS 47.10.092(a) is amended to read:

**6 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian
7 of a minor subject to a proceeding under AS 47.10.010 - 47.10.142 may disclose
8 confidential or privileged information about the minor, including information that has
9 been lawfully obtained from agency or court files, to the governor, the lieutenant
10 governor, a legislator, the ombudsman appointed under AS 24.55, the attorney general,
11 and the commissioners of health and social services, administration, or public safety,
12 or an employee of these persons, for review or use in their official capacities. The
13 department may disclose additional confidential or privileged information and
14 make available for inspection documents about the minor to these state officials**

1 or employees for review or use in their official capacities. A person to whom
 2 disclosure is made under this section may not disclose confidential or privileged
 3 information about the minor to a person not authorized to receive it.

4 * **Sec. 2.** AS 47.12.110 is amended by adding a new subsection to read:

5 (d) Notwithstanding (a) of this section, a court hearing on a petition seeking
 6 the adjudication of a minor as a delinquent shall be open to the public, except as
 7 prohibited or limited by order of the court, if

8 (1) the department files with the court a motion asking the court to
 9 open the hearing to the public, and the petition seeking adjudication of the minor as
 10 a delinquent is based on

11 (A) the minor's alleged commission of an offense, and the
 12 minor has knowingly failed to comply with all the terms and conditions
 13 required of the minor by the department or imposed on the minor in a court
 14 order entered under AS 47.12.040(a)(2) or 47.12.120;

15 (B) the minor's alleged commission of
 16 (i) a crime against a person that is punishable as a
 17 felony;

18 (ii) a crime in which the minor employed a deadly
 19 weapon, as that term is defined in AS 11.81.900(b), in committing the
 20 crime;

21 (iii) arson under AS 11.46.400 - 11.46.410;
 22 (iv) burglary under AS 11.46.300;
 23 (v) distribution of child pornography under
 24 AS 11.61.125;

25 (vi) promoting prostitution in the first degree under
 26 AS 11.66.110; or

27 (vii) misconduct involving a controlled substance under
 28 AS 11.71 involving the delivery of a controlled substance or the
 29 possession of a controlled substance with intent to deliver, other than
 30 an offense under AS 11.71.040 or 11.71.050; or

31 (C) the minor's alleged commission of a felony and the minor

4 (2) the minor agrees to a public hearing on the petition seeking
5 adjudication of the minor as a delinquent.

6 * Sec. 3. AS 47.12.300(c) is amended to read:

7 (c) Except when disclosure of the name of a minor is authorized or
8 required by this chapter, the [THE] name or picture of a minor under the jurisdiction
9 of the court may not be made public in connection with the minor's status as a
10 delinquent unless authorized by order of the court.

11 * Sec. 4. AS 47.12.310(a) is amended to read:

(a) Except as specified in AS 47.12.315, 47.12.320, [AS 47.12.320] and (b) - (g) of this section, all information and social records pertaining to a minor who is subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state, or municipal agency or employee in the discharge of the agency's or employee's official duty, including driver's license actions under AS 28.15.185, are privileged and may not be disclosed directly or indirectly to anyone without a court order.

18 * Sec. 5. AS 47.12.310(b) is amended to read:

19 (b) A state or municipal agency or employee may disclose information
20 regarding a case to

(1) a guardian ad litem appointed by the court or to a citizen review panel for permanency planning authorized by AS 47.14.200 - 47.14.220;

(2) a person or an agency requested to provide consultation or services for a minor who is subject to the jurisdiction of the court under this chapter;

25 (3) school officials as may be necessary to protect the safety of school
26 students and staff or to enable the school to provide appropriate counseling and
27 supportive services to meet the needs of a minor about whom information is
28 disclosed;

29 (4) a governmental agency as may be necessary to obtain that agency's
30 assistance for the department in its investigation or to obtain physical custody of a
31 minor;

4 (6) a victim as may be necessary to inform the victim about the
5 disposition or resolution of a case involving a minor.

6 * **Sec. 6.** AS 47.12.310(c) is amended to read:

7 (c) A state or municipal law enforcement agency

18 (4) may disclose to the public information regarding a case as may be
19 necessary to protect the safety of the public; and

(5) may disclose to a victim or to the victim's insurance company information, including copies of reports, as necessary for civil litigation or insurance claims pursued by or against the victim.

23 * Sec. 7. AS 47.12.310(d) is amended to read:

31 * Sec. 8. AS 47.12 is amended by adding a new section to read:

1 Sec. 47.12.315. Public disclosure of information in agency records relating
2 to certain minors. (a) Notwithstanding AS 47.12.310, when an agency takes action
3 under AS 47.12.040(a)(1) to adjust a matter, or when under AS 47.12.040(a)(2) the
4 court directs the agency to adjust the matter, the agency

(1) shall, for a minor who is at least 13 years of age at the time of commission of the offense, disclose to the public the name of the minor, the name or names of the parent, parents, or guardian of the minor, the action required by the agency to be taken by the minor under AS 47.12.060 to adjust the matter, and information about the offense exclusive of information that identifies the victim of the offense, if the minor was, under AS 47.12.020, previously alleged to be a delinquent minor on the basis of the minor's commission of at least one offense and, on the basis of that allegation, a state agency has, under AS 47.12.040(a), been asked to make a preliminary inquiry to determine if any action on that matter is appropriate, and, if the minor is alleged to be a delinquent minor on the basis of the minor's commission of another offense, exercise of agency jurisdiction is based on the minor's alleged commission of that other offense, and that other offense is one of the following:

(A) a crime against a person that is punishable as a felony;

(B) a crime in which the minor employed a deadly weapon, as defined in AS 11.81.900(b), in committing the crime;

(C) arson under AS 11.46.400 - 11.46.410;

(D) burglary under AS 11.46.300;

(E) distribution of child pornography under AS 11.61.125;

(F) promoting prostitution in the first degree under

AS 11.66.110; or

(G) misconduct involving a controlled substance under involving the delivery of a controlled substance or the possession of substance with intent to deliver, other than an offense under or 11.71.050; and

(2) may, for a minor who is at least 13 years of age at the time of commission of the offense, disclose to the public the name of the minor, the name or names of the parent, parents, or guardian of the minor, the action required by the

1 agency to be taken by the minor under AS 47.12.060 to adjust the matter, and
2 information about the offense exclusive of information that identifies the victim of the
3 offense if the minor has knowingly failed to comply with all terms and conditions
4 required of the minor by the agency to adjust the matter under AS 47.12.060(b).

5 (b) The department shall publicly disclose the name of a minor, the name or
6 names of the minor's parent, parents, or guardian, and the alleged offense exclusive
7 of information that identifies the victim of the offense, and, when available, the
8 outcome of proceedings before the court if, under AS 47.12.040(a)(1)(B) or
9 AS 47.12.040(a)(2), the department files with the court a petition seeking adjudication
10 of the minor as a delinquent based on

11 (1) the minor's alleged commission of an offense, the minor was at
12 least 13 years of age at the time of commission of the offense, and the minor has
13 knowingly failed to comply with all the terms and conditions required of the minor by
14 the department or imposed on the minor in a court order entered under
15 AS 47.12.040(a)(2) or 47.12.120;

16 (2) the minor's alleged commission of an offense set out in this
17 paragraph and the minor was at least 13 years of age at the time of commission of the
18 offense; the provisions of this paragraph apply to the minor's commission of

19 (A) a crime against a person that is punishable as a felony;
20 (B) a crime in which the minor employed a deadly weapon, as
21 that term is defined in AS 11.81.900(b), in committing the crime;

22 (C) arson under AS 11.46.400 - 11.46.410;
23 (D) burglary under AS 11.46.300;
24 (E) distribution of child pornography under AS 11.61.125;
25 (F) promoting prostitution in the first degree under
26 AS 11.66.110; or

27 (G) misconduct involving a controlled substance under
28 AS 11.71 involving the delivery of a controlled substance or the possession of
29 a controlled substance with intent to deliver, other than an offense under
30 AS 11.71.040 or 11.71.050; or

31 (3) the minor's alleged commission of a felony and the minor was 16

1 years of age or older at the time of commission of the offense when the minor has
2 previously been convicted or adjudicated a delinquent minor based on the minor's
3 commission of an offense that is a felony.

4 (c) If, under AS 47.12.060(a), the agency determines that a matter should be
5 dismissed or if, under AS 47.12.120(c), the court finds that a minor is not delinquent
6 and dismisses the case against the minor, the minor may request the department to
7 disclose information about the matter or the case to the public. If the minor makes a
8 request under this subsection, the department shall disclose to the public information
9 about the disposition of the matter or case under AS 47.12.060(a) or 47.12.120(c), as
10 appropriate, exclusive of information that identifies the victim of the alleged offense.

11 (d) When required by this section to disclose information,

12 (1) the department or other agency may not disclose the name of an
13 out-of-home care provider, as that term is defined in AS 47.14.299, with whom the
14 minor was living at the time the minor was alleged to have committed the offense if
15 the minor had been placed in out-of-home care with that provider on other than a
16 permanent or long-term basis;

17 (2) if the department or other agency maintains the information to be
18 disclosed by electronic means that can be recovered from a computer data base, the
19 department or agency may disclose the information in that medium.

20 (e) The department or an agency may not release information about a minor
21 under this section if the offense allegedly committed by the minor on which the
22 information is based occurred before January 1, 1998. The authority to release
23 information under this section is limited to five years from the date the department or
24 other agency is first required or authorized to make the disclosure. However, the
25 limitation of this section does not apply if the department or other agency determines
26 that during the five-year period the minor

27 (1) has knowingly failed to make all restitution payments required of
28 the minor by AS 47.12.060(b) or 47.12.120(b)(4); or

29 (2) has committed a crime punishable as a felony.

30 (f) When disclosure is required under this section, the department may petition
31 the court for an order prohibiting the disclosure. The court may grant the petition if,

1 on the basis of information presented in the petition or at an in camera hearing held
2 on the petition, the court finds that

3 (1) the crime was an isolated incident and the minor does not present
4 any further danger to the public; or

5 (2) the victim agrees that disclosure is inappropriate.

6 * **Sec. 9.** Rule 3(c), Alaska Delinquency Rules, is amended to read:

7 (c) **Admission to Hearings [GENERAL PUBLIC EXCLUDED]. The**
8 **provisions of AS 47.12.110(d) apply to govern admission of the public to**
9 **adjudication hearings. Disposition hearings, temporary detention hearings,**
10 **hearings in the nature of an arraignment on a petition, and other proceedings**
11 **before the court [HEARINGS]** are not open to the public unless requested by the
12 juvenile. However, the court may, after due consideration for the welfare of the
13 juvenile and the interests of the public, admit specific individuals to a hearing **or**
14 **proceeding**, and shall admit victims of the juvenile's offense to hearings **or**
15 **proceedings** as required by **AS 47.12** [AS 47.10.070(b)].

16 * **Sec. 10. APPLICABILITY.** In AS 47.12.315, added by sec. 8 of this Act, when
17 disclosure of information is dependent on the minor's previous conviction or adjudication as
18 a delinquent, or on the minor's failure to comply with all terms and conditions required of or
19 imposed on the minor, the Department of Health and Social Services or other agency required
20 to make the disclosure shall consider the minor's previous conviction or delinquency
21 adjudication, or a term or condition required or imposed on the minor, that occurred before
22 the effective date of this Act, but may not consider a conviction or adjudication that occurred
23 or a term or condition that was required or imposed earlier than five years before the effective
24 date of this Act.