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West's Alaska Statutes Annotated Currentness

Title 40. Public Records and Recorders

    ¶ Chapter 25. Public Record Disclosures (Refs & Annos)

        ¶ Article 1. Inspection and Copying of Public Records

    → **§ 40.25.120. Public records; exceptions; certified copies**

(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except

(1) records of vital statistics and adoption proceedings, which shall be treated in the manner required by AS 18.50;

(2) records pertaining to juveniles unless disclosure is authorized by law;

(3) medical and related public health records;

(4) records required to be kept confidential by a federal law or regulation or by state law;

(5) to the extent the records are required to be kept confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure or retain federal assistance;

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;

(D) could reasonably be expected to disclose the identity of a confidential source;

(E) would disclose confidential techniques and procedures for law enforcement investigations or prosecu-

tions;

(F) would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or

(G) could reasonably be expected to endanger the life or physical safety of an individual;

(7) names, addresses, and other information identifying a person as a participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the advance college tuition savings program under AS 14.40.803--14.40.817;

(8) public records containing information that would disclose or might lead to the disclosure of a component in the process used to execute or adopt an electronic signature if the disclosure would or might cause the electronic signature to cease being under the sole control of the person using it;

(9) reports submitted under AS 05.25.030 concerning certain collisions, accidents, or other casualties involving boats;

(10) records or information pertaining to a plan, program, or procedures for establishing, maintaining, or restoring security in the state, or to a detailed description or evaluation of systems, facilities, or infrastructure in the state, but only to the extent that the production of the records or information

(A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures;

(B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or

(C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare;

(11) the written notification regarding a proposed regulation provided under AS 24.20.105 to the Department of Law and the affected state agency and communications between the Legislative Affairs Agency, the Department of Law, and the affected state agency under AS 24.20.105;

(12) records that are

(A) proprietary, privileged, or a trade secret in accordance with AS 43.90.150 or 43.90.220(e);

(B) applications that are received under AS 43.90 until notice is published under AS 43.90.160.

(b) Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the fees under AS 40.25.110-40.25.115 a certified copy of the record, and the copy shall in all cases be evidence of the original.

(c) Recorders shall permit memoranda, transcripts, and copies of the public records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants, subject to reasonable rules and regulations as are necessary for the protection of the records and to prevent interference with the regular discharge of the duties of the recorders and their employees.

CREDIT(S)

SLA 1962, ch. 101, § 3.23; SLA 1990, ch. 200, § 5; SLA 1994, ch. 113, § 1; SLA 1997, ch. 102, § 1; SLA 1998, ch. 65, § 2; SLA 2000, ch. 3, § 1; SLA 2000, ch. 28, § 24; SLA 2002, ch. 36, § 1; SLA 2004, ch. 164, § 4.  
Amended by SLA 2007, ch. 22, § 5, eff. June 8, 2007; SLA 2008, ch. 76, § 2, eff. July 1, 2008.

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Title 40. Public Records and Recorders

    ■ Chapter 25. Public Record Disclosures (Refs & Annos)

        ■ Article 1. Inspection and Copying of Public Records

    → **§ 40.25.140. Confidentiality of library records**

(a) Except as provided in (b) of this section, the names, addresses, or other personal identifying information of people who have used materials made available to the public by a library shall be kept confidential, except upon court order, and are not subject to inspection under AS 40.25.110 or 40.25.120. This section applies to libraries operated by the state, a municipality, or a public school, including the University of Alaska.

(b) Records of a public elementary or secondary school library identifying a minor child shall be made available on request to a parent or guardian of that child.

CREDIT(S)

SLA 1985, ch. 35, § 1.

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Title 40. Public Records and Recorders

    ■ Chapter 25. Public Record Disclosures (Refs & Annos)

        ■ Article 1. Inspection and Copying of Public Records

            → **§ 40.25.151. Confidentiality of retirement records**

(a) Except as provided in (b)--(d) of this section, public records, including electronic services and products involving public records, containing information about a person and maintained under AS 14.25, AS 22.25, AS 26.05.222--26.05.229, AS 39.35, or former AS 39.37 shall be kept confidential and are not subject to inspection or copying under AS 40.25.110--40.25.120.

(b) Records described in (a) of this section concerning a person who is a member or former member of a state retirement system who is still living may only be released to

(1) the person or the person's guardian;

(2) the person's employer or former employer;

(3) a state agency authorized to obtain confidential information;

(4) another person if the person has

(A) written authorization for release from the affected member or former member or the member's or former member's guardian; or

(B) a court order or subpoena to obtain the information.

(c) Records described in (a) of this section concerning a member or former member of a state retirement system who is deceased or a deceased member's named beneficiary may only be released to

(1) the member's named beneficiary or the beneficiary's guardian;

(2) the member's or former member's former employer;

- (3) a state agency authorized to obtain confidential information;
- (4) the personal representative of the member's or former member's estate;
- (5) another person if the person has
  - (A) written authorization for release from the member or former member, the member's named beneficiary, or the personal representative of the member's or former member's estate; or
  - (B) a court order or subpoena to secure the information.

(d) The name and address of a living person who is a member or former member of a state retirement system may be released to a retirement organization representing persons receiving benefits under a state retirement system if the retirement organization is affiliated with an organization representing employees of the employer under AS 23.40.070--23.40 .260 (Public Employment Relations Act).

(e) In this section, "state retirement system" means the teachers' retirement system under AS 14.25, the judicial retirement system under AS 22.25, the retirement system for members of the national guard under AS 26.05.222 --26.05.229, the public employees' retirement system under AS 39.35, or the elected public officers retirement system under former AS 39.37.

CREDIT(S)

SLA 2000, ch. 68, § 1.

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Title 43. Revenue and Taxation

☒ Chapter 82. Alaska Stranded Gas Development Act

☒ Article 4. Requests for Information; Confidentiality; Disclosure of Information

→ § 43.82.310. Disclosure of information; confidentiality

(a) An applicant may request **confidential** treatment of **information** that the applicant provides under AS 43.82.300 by clearly identifying the **information** and the reasons supporting the request for **confidential** treatment. The commissioner of revenue or the commissioner of natural resources, as appropriate, shall keep the **information confidential** until the commissioner determines whether the requirements of (b) of this section are met. If the commissioner of revenue or the commissioner of natural resources has not made a determination under (b) of this section within 14 days after receiving a request for **confidential** treatment, the request is **considered** denied. If the appropriate commissioner determines that the **information** does not meet the requirements of (b) of this section or if the commissioner fails to make a determination within 14 days, the commissioner shall return the **information** and any copies of it at the request of the applicant. If the commissioner of revenue or the commissioner of natural resources, as appropriate, returns **information** under this subsection, the commissioner shall cease review of the application or cease contract development under AS 43.82.200--43.82.270, as appropriate, unless the commissioner determines that the returned **information** is unnecessary to make a determination on the application or to develop contract terms under AS 43.82.200--43.82.270.

(b) If requested by the applicant, **information** provided to the commissioner of revenue or the commissioner of natural resources under AS 43.82.300 shall be kept **confidential** if the commissioner receiving the **information** determines, upon an adequate showing by the applicant, that the **information**

(1) is a trade secret or other proprietary research, development, or commercial **information** that the applicant treats as **confidential**;

(2) affects the applicant's competitive position; and

(3) has commercial value that may be significantly diminished by public disclosure or that public disclosure is not in the long-term fiscal interests of the state.

(c) **Information** determined to be **confidential** under (b) of this section is **confidential** under that subsection only so long as is necessary to protect the competitive position of the applicant, to prevent the significant diminution of the commercial value of the **information**, or to protect the long-term fiscal interests of the state. The commissioner of revenue or the commissioner of natural resources, as appropriate, may not release **information** that the commissioner has previously determined to be **confidential** under (b) of this section without providing the applicant notice and an opportunity to be heard.

(d) Notwithstanding the limitation in (c) of this section, the Department of Revenue and the Department of Nat-

ural Resources may provide to one another, to the Department of Law, to the legislature, and to the Office of the Governor any **information** provided under AS 43.82.300 relevant to the implementation of this chapter or to the enforcement of state or federal laws. **Information** that is exchanged under this subsection that was determined to be **confidential** under (b) of this section remains **confidential** except as provided in (c) of this section. The portions of the records and files of the Department of Revenue, the Department of Natural Resources, the Department of Law, the legislature, and the Office of the Governor that reflect, incorporate, or analyze **information** that is determined to be **confidential** under (b) of this section are not public records except as provided in (c) of this section.

(e) Notwithstanding the limitation in (c) of this section, **information** that is determined to be **confidential** under (b) of this section shall be disclosed on request by the commissioner of revenue, the commissioner of natural resources, or the attorney general to a legislator; to the legislative auditor; and, as directed by the chair or vice-chair of the Legislative Budget and Audit Committee, to the director of legislative finance, to the permanent employees of those divisions who are responsible for evaluating a contract under AS 43.82.020, and to agents or contractors of the legislative auditor or the director of legislative finance who are engaged to evaluate a contract under AS 43.82.020. Information that is determined to be confidential under (b) of this section may also be disclosed by the commissioner of revenue or the commissioner of natural resources to an independent contractor under AS 43.82.240 or to a municipal advisory group established under AS 43.82.510. Before **confidential information** is disclosed under this subsection, the person receiving the **information** must sign an appropriate confidentiality agreement.

(f) If the commissioner of revenue chooses to develop a contract under AS 43.82.020, the portions of the records and files of the Department of Revenue, the Department of Natural Resources, the Department of Law, and a municipal advisory group established under AS 43.82.510 that reflect, incorporate, or analyze information that is relevant to the development of the position or strategy of the commissioner of revenue, the commissioner of natural resources, or the attorney general with respect to a particular provision that may be incorporated into the contract are not public records until the commissioner of revenue gives public notice under AS 43.82.410 of the commissioner's preliminary findings and determination under AS 43.82.400. Nothing in this subsection

- (1) makes a record or file of the Department of Revenue, the Department of Natural Resources, or the Department of Law a public record that otherwise would not be a public record under AS 40.25.100--40.25.220;
- (2) affects the confidentiality provisions of (a)--(e) of this section; or
- (3) abridges a privilege recognized under the laws of this state, whether at common law or by statute or by court rule.

#### CREDIT(S)

SLA 1998, ch. 104, § 3.

#### LIBRARY REFERENCES

AS § 43.82.310

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Taxation  2367, 3519, 3682.  
Westlaw Key Number Searches: 371k2367; 371k3519; 371k3682.

AS § 43.82.310, AK ST § 43.82.310

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Title 44. State Government

    ` Chapter 88. Alaska Industrial Development and Export Authority (Refs & Annos)

        ` Article 4. General Administrative Provisions

    → **§ 44.88.215. Confidentiality of records and information**

(a) In order to promote the purposes of this chapter, unless the records or **information** were a matter of public record before submittal to the authority, the following records and **information** shall be kept **confidential** if the person supplying the records or **information** or the project, bond, loan, or guarantee applicant or borrower requests **confidentiality** and makes an adequate showing to the executive director of the authority that the records or **information** are

- (1) income tax returns;
- (2) financial statements, profit-and-loss statements, and cash flow projections, except the **information** required by the authority to calculate debt service coverage on the loan;
- (3) financial business plans;
- (4) credit reports from consumer reporting agencies and other credit **information** obtained from banks, creditors, or other credit reporting entities;
- (5) trade secrets, including **confidential** proprietary **information** and **confidential information** about products, pricing, or manufacturing or business processes;
- (6) appraisals, except the name of the appraiser, the date of the appraisal, and the fair market value determined for the property appraised;
- (7) market surveys and marketing strategy **information**; or
- (8) any **information** required to be kept **confidential** by a federal law or regulation or by state law.

(b) **Information** compiled by the authority from **information** described in (a) of this section shall be kept **confidential** unless disclosure is authorized by the person supplying the **information** and by the project, bond, loan, or guarantee applicant or borrower.

(c) The records and **information** that the executive director of the authority determines to be **confidential** under (a) or (b) of this section are not public records under AS 40.25.110--40.25.220.

(d) Nothing in this section shall prevent a legislator from reviewing **information** otherwise **confidential** under this section if the legislator has a valid legislative purpose for reviewing the **information** and if the legislator agrees to maintain the **confidentiality** of the **information**.

AS § 44.88.215

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CREDIT(S)

SLA 1998, ch. 109, § 8. Amended by SLA 2010, ch. 71, §§ 5, 6, eff. June 12, 2010.

HISTORICAL AND STATUTORY NOTES

In 2010, “**Confidentiality** of records and **information**” was substituted for “**Confidentiality of information**” in the section title by the revisor.

AS § 44.88.215, AK ST § 44.88.215

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Title 46. Water, Air, Energy, and Environmental Conservation  
    Chapter 03. Environmental Conservation  
        Article 4. Radiation and Hazardous Waste Protection  
            → **§ 46.03.311. Public records**

(a) Permits, permit applications, records, reports, and **information** and documentation obtained under AS 46.03.302 - 46.03.308 are available to the public for inspection and copying. However, upon a showing satisfactory to the commissioner that a record, report, permit, application, or **information** would, if made public, divulge methods or processes entitled to protection as trade secrets, the commissioner shall treat the record, report, permit, application, or **information** as **confidential**.

(b) **Information** that is **confidential** may be transmitted under a continuing restriction of **confidentiality** to other officers, employees, or authorized representatives of the state or of the United States if

- (1) the person responsible for furnishing the record, report, permit, application, or **information** to which the **information** pertains is informed at least two weeks before the transmittal; and
- (2) the **information** has been acquired by the department under the provisions of AS 46.03.296 - 46.03.311.

(c) This section does not limit the department's authority to release **confidential information** during emergency situations.

CREDIT(S)

SLA 1981, ch. 93, § 10.

AS § 46.03.311, AK ST § 46.03.311

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Title 46. Water, Air, Energy, and Environmental Conservation

    ■ Chapter 14. Air Quality Control

        ■ Article 5. Miscellaneous Provisions

    → **§ 46.14.520. Confidentiality of trade secrets**

Records, reports, and **information**, and parts of records, reports, and **information**, other than emission data, in the department's possession or control are **considered confidential** records and shall be kept **confidential** and in separate files if the owner and operator have certified under oath to the department or authorized local program that

(1) public disclosure would tend to affect adversely the owner's and operator's competitive position; and

(2) the records, reports, or **information**, or parts of the records, reports, or **information**, would divulge production figures, sales figures, processes, production techniques, or financial data of the owner and operator that are entitled to protection as trade secrets under AS 45.50.910 - 45.50.945 (Alaska Uniform Trade Secrets Act).

CREDIT(S)

SLA 1993, ch. 74, § 2.

AS § 46.14.520, AK ST § 46.14.520

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Title 47. Welfare, Social Services and Institutions

↪ Chapter 30. Mental Health

↪ Article 5. Community Mental Health Services Act

→ **§ 47.30.590. Patient rights and the confidential nature of records and information**

(a) The department shall adopt regulations to assure patient rights and to safeguard the **confidential** nature of records and **information** about the recipients of services provided under this chapter. The regulations must require that entities identified in AS 47.30.540(b) develop and include in any plan submitted for approval adequate provisions for safeguarding **confidential information**. The regulations must provide for disclosure of **confidential information** to parents or guardians, to mental health professionals providing services to a recipient, and to other appropriate service agencies when it is in the defined best interests of the patient.

(b) Notwithstanding (a) of this section, the department is authorized to review, obtain, and copy **confidential** and other records and **information** about the clients of services requested or furnished under AS 47.30.520--47.30.620 to evaluate compliance with those statutes. The department may obtain the records and **information** regarding clients from the client or directly from an entity designated by the department under AS 47.30.520--47.30.620 that furnished those services. Records obtained by the department under this subsection are medical records, shall be handled **confidentially**, and are exempt from public inspection and copying under AS 40.25.110--40.25.120.

CREDIT(S)

SLA 1975, ch. 121, § 1; SLA 1991, ch. 66, § 34; SLA 2001, ch. 74, § 3.

LIBRARY REFERENCES

Health ↗ 257, 582.

Mental Health ↗ 20, 21.

Westlaw Key Number Searches: 198Hk257; 198Hk582; 257Ak20; 257Ak21.

C.J.S. Mental Health §§ 14 to 20.

RESEARCH REFERENCES

Treatises and Practice Aids

Investigating Employee Conduct App E2, **Confidentiality** of Medical Records.

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Title 47. Welfare, Social Services and Institutions

↪ Chapter 10. Children in Need of Aid

↪ Article 1. Children's Proceedings

→ **§ 47.10.090. Court records**

- (a) The court shall make and keep records of all cases brought before it.
- (b) Repealed by SLA 1996, ch. 59, § 55, eff. Sept. 10, 1996.
- (c) Within 30 days after the date of a child's 18th birthday or, if the court retains jurisdiction of a child past the child's 18th birthday, within 30 days after the date on which the court releases jurisdiction over the child, the court shall order all the court's official records pertaining to that child in a proceeding under this chapter sealed. A person may not use these sealed records unless authorized by order of the court upon a finding of good cause.
- (d) The name or picture of a child under the jurisdiction of the court may not be made public in connection with the child's status as a child in need of aid unless authorized by order of the court or unless to implement the permanency plan for a child after all parental rights of custody have been terminated. This subsection does not prohibit the release of aggregate information for statistical or other informational purposes if the identity of any particular person is not revealed by the release.
- (e) The court's official records under this chapter may be inspected only with the court's permission and only by persons having a legitimate interest in them. A foster parent is considered to have a legitimate interest in those portions of the court's records relating to a child who is placed by the department with the foster parent or who the department proposes for placement with the foster parent.

CREDIT(S)

SLA 1957, art I, ch. 145, § 10(3)(4); SLA 1972, ch. 124, § 1; SLA 1975, ch. 90, § 1; SLA 1977, ch. 63, § 20; SLA 1988, ch. 130, § 4; SLA 1989, ch. 50, § 56; SLA 1994, ch. 98, § 1; SLA 1994, ch. 113, § 12; SLA 1996, ch. 59, §§ 29--31, 55; SLA 1998, ch. 99, § 34; SLA 2005, ch. 64, §§ 18, 19.

HISTORICAL AND STATUTORY NOTES

SLA 2005, ch. 64, § 62 provides:

AS § 47.10.090

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“Applicability. (a) The amendments to Rule 3, Alaska Child in Need of Aid Rules of Procedure, made by secs. 51 and 52 of this Act, apply to hearings that are conducted on or after July 1, 2005.

“(b) Sections 9–11, 14, 18, 19, 22–27, 51, 52, and 55 of this Act apply to all proceedings and hearings conducted on or after July 1, 2005.

“(c) Sections 9, 10, 14, and 19–27 of this Act apply to all **information**, records, and files created on or after July 1, 2005; however, if a file contains **information** and records that were created before July 1, 2005, that **information** and those records retain the **confidentiality** that they had under the law on June 30, 2005.”

SLA 2005, ch. 64, § 65(e) provides:

“(e) Sections 9 and 10 of this Act, AS 47.10.080(u), enacted by sec. 14 of this Act, and secs. 19 and 22--27 of this Act, take effect only if secs. 51, 52, 53, and 61 of this Act receive the two-thirds majority vote of each house as required by art. IV, sec. 15, Constitution of the State of Alaska.”

## CROSS REFERENCES

Delinquent minors, court records, see § 47.12.300.

## LIBRARY REFERENCES

Infants 133.  
Westlaw Key Number Search: 211k133.  
C.J.S. Infants §§ 43, 71 to 95.

## NOTES OF DECISIONS

- Confidentiality, generally 1
- Disclosures between state agencies 3
- Discovery of privileged information 2
- Judicial discretion 4
- Orders to release records 5

## 1. Confidentiality, generally

Guarantee of **confidentiality** concerning juvenile delinquency proceedings did not preclude court's consideration of unsolicited letters from victims' relatives; **confidentiality** provisions are aimed at protecting privacy of minors and are not designed to insulate court from relevant **information** submitted by members of the public. AS 47.10.090(b); Delinquency Rule 2(g). J.C.W. v. State, 1994, 880 P.2d 1067. Infants  203

Admission of social workers' testimony of statements by child abuse victims and victims' mother in connection with child in need of aid action initiated after State learned of accusations of sexual abuse against children's stepfather, was not plain error in prosecution of father for sexual abuse of minor, despite claim that testimony vi-

olated policy of confidentiality of those proceedings; neither defendant, his wife, nor children objected to admission of testimony in trial, and testimony in question was relevant to determining whether children's original charges of sexual abuse were accurate. AS 47.10.070, 47.10.090(a). Clifton v. State, 1988, 758 P.2d 1279. Criminal Law ~~376~~ 1036.2

#### 2. Discovery of privileged information

Defendant apparently had "legitimate interest" in minor victim's **confidential** child in need of aid records and division of family youth services records, and, thus, statute permitting disclosure of **confidential** records only to persons with legitimate interest in them did not bar defendant's access to records allegedly indicating victim's motive to fabricate. AS 47.10.090(a). Sledge v. State, 1988, 763 P.2d 1364. Privileged Communications And Confidentiality ~~376~~ 376

Defendant was entitled to discover evidence that indicated minor victim's bias or motive to fabricate, that was relevant, and that was contained in victim's child in need of aid file and her division of family and youth services file. AS 47.10.090(a). Sledge v. State, 1988, 763 P.2d 1364. Privileged Communications And **Confidentiality** ~~376~~ 376

#### 3. Disclosures between state agencies

The Department of Health and Social Services, Division of Family and Youth Services does not have legal authority to disclose to the Department of Public Safety on a monthly basis certain **information** concerning Youth Services clients disclosure of **information** under current law must be on a case-by-case basis. Alaska Op. Atty. Gen. 665-94-0170, (July 8, 1994) 1994 WL 562172.

#### 4. Judicial discretion

Denying father access to records of child-in-need-of-aid (CINA) investigation involving maternal grandmother 18 years earlier was not abuse of discretion in father's action to modify custody of his two sons, which had been granted to maternal grandparents; CINA investigation was remote in time, and father did not allege any abuse after that time. AS 25.20.110, 47.10.090(c). C.R.B. v. C.C. (1998) Alaska, 959 P.2d 375. Infants ~~133~~ 133

Policy of confidentiality in child in need of aid proceedings is not absolute, rather, court has discretion to disclose records. AS 47.10.070, 47.10.090(a). Clifton v. State, 1988, 758 P.2d 1279. Infants ~~133~~ 133

#### 5. Orders to release records

Superior court's records release order did not violate statute governing child in need of aid proceeding or regulations promulgated thereunder as long as order was narrowly construed to permit sharing of records among parties and agencies involved and to require any recipient of released **information** to maintain **confidentiality** standards comparable to those found in statute and regulations. AS 47.10.090, 47.10.090(a). Matter of A.B., 1990, 791 P.2d 615. Infants ~~133~~ 133; Infants ~~201~~ 201

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Title 47. Welfare, Social Services and Institutions  
    ■ Chapter 10. Children in Need of Aid  
        ■ Article 1. Children's Proceedings  
            → **§ 47.10.093. Disclosure of agency records**

(a) Except as permitted in AS 47.10.092 and in (b)–(g) and (i)–(l) of this section, all information and social records pertaining to a child 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 are privileged and may not be disclosed directly or indirectly to anyone without a court order.

(b) A state or municipal agency or employee shall disclose appropriate **confidential information** regarding a case to

(1) a guardian ad litem appointed by the court;

(2) a person or an agency requested by the department or the child's legal custodian to provide consultation or services for a child who is subject to the jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of the consultation or services;

(3) an out-of-home care provider as necessary to enable the out-of-home care provider to provide appropriate care to the child, to protect the safety of the child, and to protect the safety and property of family members and visitors of the out-of-home care provider;

(4) a school official as necessary to enable the school to provide appropriate counseling and support services to a child who is the subject of the case, to protect the safety of the child, and to protect the safety of school students and staff;

(5) a governmental agency as necessary to obtain that agency's assistance for the department in its investigation or to obtain physical custody of a child;

(6) a law enforcement agency of this state or another jurisdiction as necessary for the protection of any child or for actions by that agency to protect the public safety;

(7) a member of a multidisciplinary child protection team created under AS 47.14.300 as necessary for the

performance of the member's duties;

(8) the state medical examiner under AS 12.65 as necessary for the performance of the duties of the state medical examiner;

(9) a person who has made a report of harm as required by AS 47.17.020 to inform the person that the investigation was completed and of action taken to protect the child who was the subject of the report;

(10) the child support services agency established in AS 25.27.010 as necessary to establish and collect child support for a child who is a child in need of aid under this chapter;

(11) a parent, guardian, or caregiver of a child or an entity responsible for ensuring the safety of children as necessary to protect the safety of a child;

(12) a review panel established by the department for the purpose of reviewing the actions taken by the department in a specific case; and

(13) the University of Alaska under the Alaska higher education savings program for children established under AS 47.14.400, but only to the extent that the **information** is necessary to support the program and only if the **information** released is maintained as a **confidential** record by the University of Alaska.

(c) A state or municipal law enforcement agency shall disclose **information** regarding a case that is needed by the person or agency charged with making a preliminary investigation for the **information** of the court under AS 47.10.020.

(d), (e) Repealed by SLA 1996, ch. 59, § 55, eff. Sept. 10, 1996.

(f) The department may release to a person with a legitimate interest **confidential information** relating to children not subject to the jurisdiction of the court under AS 47.10.010.

(g) The department and affected law enforcement agencies shall work with school districts and private schools to develop procedures for the disclosure of confidential information to a school official under (b)(4) of this section. The procedures must provide a method for informing the principal or the principal's designee of the school that the student attends as soon as it is reasonably practicable.

(h) Repealed by SLA 1996, ch. 59, § 55, eff. Sept. 10, 1996.

(i) The commissioner of health and social services or the commissioner's designee or the commissioner of administration or the commissioner's designee, as appropriate, may disclose to the public, upon request, confidential information, as set out in (j) of this section, when

(1) the parent or guardian of a child who is the subject of one or more reports of harm under AS 47.17 has made a public disclosure concerning the department's involvement with the family;

(2) the alleged perpetrator named in one or more reports of harm under AS 47.17 has been charged with a crime concerning the alleged abuse or neglect; or

(3) abuse or neglect has resulted in the fatality or near fatality of a child who is the subject of one or more reports of harm under AS 47.17.

(j) The department may publicly disclose information pertaining to a child or an alleged perpetrator named in a report of harm described under (i) of this section, or pertaining to a household member of the child or the alleged perpetrator, if the information relates to a determination, if any, made by the department regarding the nature and validity of a report of harm under AS 47.17 or to the department's activities arising from the department's investigation of the report. The commissioner or the commissioner's designee

(1) shall withhold disclosure of the child's name, picture, or other information that would readily lead to the identification of the child if the department determines that the disclosure would be contrary to the best interests of the child, the child's siblings, or other children in the child's household; or

(2) after consultation with a prosecuting attorney, shall withhold disclosure of information that would reasonably be expected to interfere with a criminal investigation or proceeding or a criminal defendant's right to a fair trial in a criminal proceeding.

(k) Except for a disclosure made under (i) of this section, a person to whom disclosure is made under this section may not disclose **confidential information** about the child or the child's family to a person not authorized to receive it.

(l) The Department of Health and Social Services and the Department of Administration shall adopt regulations to implement and interpret the duties of the respective department under this section, including regulations governing the release of **confidential information** and identifying a sufficient legitimate interest under (f) of this section.

(m) A person may not bring an action for damages against the state, the commissioner, or the commissioner's designee based on the disclosure or nondisclosure of **information** under (i) of this section except for civil damages resulting from gross negligence or reckless or intentional misconduct.

(n) A person who discloses **confidential information** in violation of this section is guilty of a class B misdemeanor.

(o) In this section, "school" means a public or private elementary or secondary school.

AS § 47.10.093

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**CREDIT(S)**

SLA 1994, ch. 113, § 13; SLA 1995, ch. 32, §§ 1, 2; SLA 1996, ch. 59, §§ 32-34, 55; SLA 1997, ch. 94, § 4; SLA 1998, ch. 99, § 36; SLA 2003, ch. 35, § 69; SLA 2004, ch. 99, § 31; SLA 2005, ch. 64, §§ 22-27; SLA 2006, ch. 20, §§ 5, 6, eff. May 4, 2006. Amended by SLA 2007, ch. 58, § 2, eff. Oct. 15, 2007.

## HISTORICAL AND STATUTORY NOTES

SLA 2005, ch. 64, § 62 provides:

"Applicability. (a) The amendments to Rule 3, Alaska Child in Need of Aid Rules of Procedure, made by secs. 51 and 52 of this Act, apply to hearings that are conducted on or after July 1, 2005.

“(b) Sections 9--11, 14, 18, 19, 22--27, 51, 52, and 55 of this Act apply to all proceedings and hearings conducted on or after July 1, 2005.

“(c) Sections 9, 10, 14, and 19–27 of this Act apply to all **information**, records, and files created on or after July 1, 2005; however, if a file contains **information** and records that were created before July 1, 2005, that **information** and those records retain the **confidentiality** that they had under the law on June 30, 2005.”

SLA 2005, ch. 64, § 65(e) provides:

“(e) Sections 9 and 10 of this Act, AS 47.10.080(u), enacted by sec. 14 of this Act, and secs. 19 and 22--27 of this Act, take effect only if secs. 51, 52, 53, and 61 of this Act receive the two-thirds majority vote of each house as required by art. IV, sec. 15, Constitution of the State of Alaska.”

SLA 2007, ch. 58 inserted par. (13) in subsec. (b).

## CROSS REFERENCES

Attempt, classification of offenses, see § 11.31.100.

Classification of offenses, see § 11.81.250.

Delinquent minors, court records, see § 47.12.310.

Fines, see § 12.55.035.

Legal accountability based upon the

Misdemeanors, sentences of imprisonment, see § 12.55-135.

Misdemeanors, sentences of imprisonment, see § 12.55, 155.  
Offenses defined by statute, see § 11.81, 220.

Prior convictions, effect on sentencing, see §

Prior convictions, effect on sentencing, see § 12.55.145.  
Restitution and compensation, see § 12.55.045.

Victims of crimes, rights, see § 12.61.010 et seq.

Victims of crimes, rights, see § 12.01.010 et seq.

#### REFERENCES

## LIBRARY REFERENCES

AS § 47.10.093

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Infants  133.  
Westlaw Key Number Search: 211k133.  
C.J.S. Infants §§ 43, 71 to 95.

NOTES OF DECISIONS

Construction and application 1

1. Construction and application

AS 47.10.093(f) authorizes the office of children's services to release information concerning minor children for whom state court proceedings have not been initiated to any 'person with a legitimate interest' in the information and tribes are 'persons' within the meaning of this statute. Alaska Op. Atty. Gen. 661-04-0467, (Oct. 1, 2004) 2004 WL 2337177.

AS § 47.10.093, AK ST § 47.10.093

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**C**

West's Alaska Statutes Annotated Currentness  
 Title 47. Welfare, Social Services and Institutions  
 ↗ Chapter 12. Delinquent Minors  
 ↗ Article 2. Information and Records  
 → **§ 47.12.300. Court records**

- (a) The court shall make and keep records of all cases brought before it.
- (b) The court shall forward a record of adjudication of a violation of an offense listed in AS 28.15.185(a) to the Department of Administration if the court imposes a license revocation under AS 28.15.185.
- (c) Except when disclosure of the name of a minor is authorized or required by this chapter and except as provided in (g) of this section, the name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent unless authorized by order of the court.
- (d) Except as provided in (f) of this section, within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court releases jurisdiction over the minor, the court shall order all the court's official records pertaining to that minor in a proceeding under this chapter sealed, as well as records of all driver's license proceedings under AS 28.15.185, criminal proceedings against the minor, and punishments assessed against the minor. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court. The provisions of this subsection relating to the sealing of records do not apply to records of traffic offenses.
- (e) The court's official records prepared under this chapter and not made public under this section are **confidential** and may be inspected only with the court's permission and only by persons having a legitimate interest in them. A foster parent is **considered** to have a legitimate interest in those portions of the court's official records relating to a child who is already placed with the foster parent or who is recommended for placement with the foster parent. A person with a legitimate interest in the inspection of a confidential record maintained by the court also includes a victim who suffered physical injury or whose real or personal property was damaged as a result of an offense that was the basis of an adjudication or modification of disposition. If the victim knows the identity of the minor, identifies the minor or the offense to the court, and certifies that the **information** is being sought to **consider** or support a civil action against the minor or against the minor's parents or guardian under AS 09.65.255, the court shall, subject to AS 12.61.110 and 12.61.140, allow the victim to inspect and use the following records and information in connection with the civil action:

- (1) a petition filed under AS 47.12.040(a) seeking to have the court declare the minor a delinquent;

- (2) a petition filed under AS 47.12.120 seeking to have the court modify or revoke the minor's probation;
- (3) a petition filed under AS 47.12.100 requesting the court to find that a minor is not amenable to treatment under this chapter and that results in closure of a case under AS 47.12.100(a); and
- (4) a court judgment or order entered under this chapter that disposes of a petition identified in (1)--(3) of this subsection.

(f) A person who has been tried as an adult under AS 47.12.100(a) or a person whose records have been made public under (g) of this section, or the department on the person's behalf, may petition the superior court to seal the records of all criminal proceedings, except traffic offenses, initiated against the person, and all punishments assessed against the person, while the person was a minor. A petition under this subsection may not be filed until five years after the completion of the sentence imposed for the offense for which the person was tried as an adult or five years after a disposition was entered for an offense for which the records were made public under (g) of this section. If the superior court finds that its order has had its intended rehabilitative effect and further finds that the person has fulfilled all orders of the court entered under AS 47.12.120, the superior court shall order the record of proceedings and the record of punishments sealed. Sealing the records restores civil rights removed because of a conviction. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court. The court may not, under this subsection, seal records of a criminal proceeding

(1) initiated against a person if the court finds that the person has not complied with a court order made under AS 47.12.120; or

(2) commenced under AS 47.12.030(a) unless the minor has been acquitted of all offenses with which the minor was charged or unless the most serious offense of which the minor was convicted was not an offense specified in AS 47.12.030(a).

(g) When a district attorney has elected to seek imposition of a dual sentence and a petition has been filed under AS 47.12.065, or when a minor agrees as part of a plea agreement to be subject to dual sentencing, all court records shall be open to the public except for predisposition reports, psychiatric and psychological reports, and other documents that the court orders to be kept **confidential** because the release of the documents could be harmful to the minor or could violate the constitutional rights of the victim or other persons.

(h) A person who discloses **confidential information** in violation of this section is guilty of a class B misdemeanor.

#### CREDIT(S)

SLA 1996, ch. 59, § 46; SLA 1997, ch. 64, § 3; 1997 E.O. No. 99 § 76; SLA 1998, ch. 107, §§ 35--39; SLA

1999, ch. 40, § 9.

#### CROSS REFERENCES

Application of state procurement code, see § 36.30.850.  
 Attempt, classification of offenses, see § 11.31.100.  
 Children in need of aid, court records, see § 47.10.090.  
 Classification of offenses, see § 11.81.250.  
 Fines, see § 12.55.035.  
 Legal accountability based upon the conduct of another, see §§ 11.16.110 and 11.16.120.  
 Misdemeanors, sentences of imprisonment, see § 12.55.135.  
 Offenses defined by statute, see § 11.81.220.  
 Prior convictions, effect on sentencing, see § 12.55.145.  
 Restitution and compensation, see § 12.55.045.  
 Victims of crimes, rights, see § 12.61.010 *et seq.*

#### LIBRARY REFERENCES

Infants [Citing](#) 133.  
 Westlaw Key Number Search: 211k133.  
 C.J.S. Infants §§ 43, 71 to 95.

#### NOTES OF DECISIONS

Judicial discretion 3  
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 Presentence investigator access to records 1  
 Release of record order 4  
 Victim impact statements 5

##### 1. Presentence investigator access to records

A pre-sentence investigator is not barred from examining or relying on Department of Health and Social Services records pertaining to a defendant's prior acts of delinquency when those acts were informally adjusted. AS 47.12.300, 47.12.310(a); Delinquency Rule 27(a). McCoy v. State (2002) Alaska App., 80 P.3d 755, on rehearing 80 P.3d 757, hearing denied. Sentencing And Punishment [Citing](#) 288

Judge could rely on hearsay statements from defendant's presentence report when imposing sentence for assault; the statements were verified since defendant's father-in-law was the source of the statements, the statements involved previous incidents of domestic violence involving defendant and the difficulties defendant's children had when defendant was within the home, the data provided by defendant's father-in-law was based on first-hand knowledge or was attributable to defendant's wife or his children. AS 47.12.300(d); Rules Crim.Proc., Rule 32.1 (b)(1); Delinquency Rule 27(a)(1). McCoy v. State (2002) Alaska App., 80 P.3d 751, rehearing denied 80 P.3d 755, on rehearing 80 P.3d 757. Sentencing And Punishment [Citing](#) 284

Presentence investigator in criminal court could review and use information contained in defendant's juvenile probation file without first obtaining special permission from the Superior Court; delinquency rule provided that a probation officer could review delinquency proceedings records while preparing a presentence report. AS 47.12.300; Delinquency Rule 27(a)(1). McCoy v. State (2002) Alaska App., 80 P.3d 751, rehearing denied 80 P.3d 755, on rehearing 80 P.3d 757. Infants ~~133~~ 133; Sentencing And Punishment ~~288~~ 288

A probation officer who is preparing a pre-sentence report can examine the defendant's juvenile file and can include information about the defendant's informal contacts with the juvenile justice system without first seeking case-specific permission from the superior court, despite statute, which declares that all agency records pertaining to a minor are privileged and may not be disclosed without a court order. AS 47.12.310; Delinquency Rule 27(a)(1). Hart v. State (2003) Alaska App., 75 P.3d 1073. Infants ~~133~~ 133; Privileged Communications And Confidentiality ~~376~~ 376; Sentencing And Punishment ~~288~~ 288

#### 2. Parental access to records

Denying father access to records of child-in-need-of-aid (CINA) investigation involving maternal grandmother 18 years earlier was not abuse of discretion in father's action to modify custody of his two sons, which had been granted to maternal grandparents; CINA investigation was remote in time, and father did not allege any abuse after that time. AS 25.20.110, 47.10.090(c). C.R.B. v. C.C. (1998) Alaska, 959 P.2d 375. Infants ~~133~~ 133

#### 3. Judicial discretion

Policy of confidentiality in child in need of aid proceedings is not absolute, rather, court has discretion to disclose records. AS 47.10.070, 47.10.090(a). Clifton v. State, 1988, 758 P.2d 1279. Infants ~~133~~ 133

#### 4. Release of record order

Superior court's records release order did not violate statute governing child in need of aid proceeding or regulations promulgated thereunder as long as order was narrowly construed to permit sharing of records among parties and agencies involved and to require any recipient of released **information** to maintain **confidentiality** standards comparable to those found in statute and regulations. AS 47.10.090, 47.10.090(a). Matter of A.B., 1990, 791 P.2d 615. Infants ~~133~~ 133; Infants ~~201~~ 201

#### 5. Victim impact statements

**Information** that court may **consider** as discretionary matter in conducting disposition hearing in juvenile delinquency case is not limited by statute requiring that court be given predisposition report, victim impact statement, and "any further **information**" requested by court or by Delinquency Rule listing **information** that must be made available. AS 47.10.081(a); Delinquency Rule 22(a)(1). J.C.W. v. State, 1994, 880 P.2d 1067. Infants ~~203~~ 203

Court conducting disposition hearing in juvenile delinquency case was authorized to consider unsolicited letters from victims' relatives absent showing that consideration of letters unduly delayed or interfered with purpose

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and character of disposition hearing. AS 47.10.081(a); Delinquency Rule 22(a)(1). J.C.W. v. State, 1994, 880 P.2d 1067. Infants ~~203~~ 203

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**C**

West's Alaska Statutes Annotated Currentness  
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    ■ Chapter 12. Delinquent Minors  
        ■ Article 2. Information and Records  
            → **§ 47.12.310. Agency records**

(a) Except as specified in AS 47.12.315, 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.

(b) A state or municipal agency or employee shall disclose

(1) information regarding a case to a federal, state, or municipal law enforcement agency for a specific investigation being conducted by that agency;

(2) appropriate information regarding a case to

(A) a guardian ad litem appointed by the court;

(B) a person or an agency requested by the department or the minor's legal custodian to provide consultation or services for a minor who is subject to the jurisdiction of the court under this chapter as necessary to enable the provision of the consultation or services;

(C) school officials as may be necessary to protect the safety of the minor who is the subject of the case and the safety of school students and staff or to enable the school to provide appropriate counseling and supportive services to meet the needs of a minor about whom information is disclosed;

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

(E) a law enforcement agency of this state or another jurisdiction as may be necessary for the protection, rehabilitation, or supervision of any minor or for actions by that agency to protect the public safety;

(F) a victim or to the victim's insurance company as may be necessary to inform the victim or the insurance company about the arrest of the minor, including the minor's name and the names of the minor's parents, copies of reports, or the disposition or resolution of a case involving a minor;

(G) the state medical examiner under AS 12.65 as may be necessary to perform the duties of the state medical examiner;

(H) foster parents or relatives with whom the child is placed by the department as may be necessary to enable the foster parents or relatives to provide appropriate care for the child who is the subject of the case, to protect the safety of the child who is the subject of the case, and to protect the safety and property of family members and visitors of the foster parents or relatives;

(I) the Department of Law or its agent for use and subsequent release if necessary for collection of an order of restitution on behalf of the recipient;

(J) the Violent Crimes Compensation Board established in AS 18.67.020 for use in awarding compensation under AS 18.67.080; and

(K) a state, municipal, or federal agency of this state or another jurisdiction that has the authority to license adult or children's facilities and services; and

(3) to the University of Alaska under the Alaska higher education savings program for children established under AS 47.14.400 information that is necessary to support the program, but only if the information released is maintained as a confidential record by the University of Alaska.

(c) A state or municipal law enforcement agency

(1) shall disclose information regarding a case that is needed by the person or agency charged with making a preliminary investigation for the information of the court under this chapter;

(2) may disclose to the public information regarding a criminal offense in which a minor is a suspect, victim, or witness if the minor is not identified by the disclosure;

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

(4) may disclose to the public information regarding a case as may be 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.

(d) Upon request of a victim, the department shall make every reasonable effort to notify the victim as soon as practicable, by telephone or in writing, when a delinquent minor is to be released from placement in a juvenile facility under AS 47.12.120(b)(1). The notice under this subsection must include the expected date of the delinquent minor's release, the geographic area in which the delinquent minor is required to reside, and other pertinent information concerning the delinquent minor's conditions of release that may affect the victim.

(e) A person may authorize the department to release information to the military or to a prospective employer about the existence of a delinquency adjudication against that person under this chapter and the offense on which it was based.

(f) The department may release to a person with a legitimate interest information relating to minors not subject to the jurisdiction of the court under this chapter. The department shall adopt regulations governing the release of information and identifying a sufficient legitimate interest.

(g) The department and affected law enforcement agencies shall work with school districts and private schools to develop procedures for the disclosure of information to school officials under (b)(2)(C) and (c)(3) of this section. The procedures must provide a method for informing the principal or the principal's designee of the school the student attends as soon as it is reasonably practicable.

(h) Notwithstanding (c)(3) of this section, a state or municipal law enforcement agency is not required to notify the appropriate school official of a school district or school under (c) of this section if the agency determines that notice would jeopardize an ongoing investigation.

(i) A state or municipal agency, other than a state or municipal law enforcement agency, or authorized employee may disclose to the public information regarding a case as may be necessary to protect the safety of the public provided the disclosure is authorized by regulations adopted by the department.

(j) In this section, "school" means a public or private elementary or secondary school.

(k) A person who discloses confidential information in violation of this section is guilty of a class B misdemeanor.

#### CREDIT(S)

SLA 1996, ch. 59, § 46; SLA 1997, ch. 64, §§ 4--7; SLA 1997, ch. 94, § 7; SLA 1998, ch. 99, § 46; SLA 1998, ch. 107, §§ 40, 41; SLA 2001, ch. 92, § 39; SLA 2002, ch. 47, § 1; SLA 2004, ch. 124, § 30. Amended by SLA 2007, ch. 58, § 3, eff. Oct. 15, 2007.

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**C**

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Title 47. Welfare, Social Services and Institutions

    ■ Chapter 30. Mental Health

        ■ Article 5. Community Mental Health Services Act

    → **§ 47.30.590. Patient rights and the confidential nature of records and information**

(a) The department shall adopt regulations to assure patient rights and to safeguard the **confidential** nature of records and **information** about the recipients of services provided under this chapter. The regulations must require that entities identified in AS 47.30.540(b) develop and include in any plan submitted for approval adequate provisions for safeguarding **confidential information**. The regulations must provide for disclosure of **confidential information** to parents or guardians, to mental health professionals providing services to a recipient, and to other appropriate service agencies when it is in the defined best interests of the patient.

(b) Notwithstanding (a) of this section, the department is authorized to review, obtain, and copy **confidential** and other records and **information** about the clients of services requested or furnished under AS 47.30.520--47.30.620 to evaluate compliance with those statutes. The department may obtain the records and **information** regarding clients from the client or directly from an entity designated by the department under AS 47.30.520--47.30.620 that furnished those services. Records obtained by the department under this subsection are medical records, shall be handled **confidentially**, and are exempt from public inspection and copying under AS 40.25.110--40.25.120.

#### CREDIT(S)

SLA 1975, ch. 121, § 1; SLA 1991, ch. 66, § 34; SLA 2001, ch. 74, § 3.

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Mental Health ~~20~~ 20, 21.  
Westlaw Key Number Searches: 198Hk257; 198Hk582; 257Ak20; 257Ak21.  
C.J.S. Mental Health §§ 14 to 20.

#### RESEARCH REFERENCES

Treatises and Practice Aids

Investigating Employee Conduct App E2, **Confidentiality** of Medical Records.

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Child in Need of Aid Rules, Rule 22

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West's Alaska Statutes Annotated Currentness  
Alaska Court Rules

- ↖ Child in Need of Aid Rules (Refs & Annos)
- ↖ Part IX. Court Administration
- **Rule 22. Confidentiality**

**(a) Confidentiality of Records.** The records of a child in need of aid proceeding are **confidential**. Only parties and their attorneys may have access to the court file except as otherwise authorized by statute or court order for good cause shown. Parties and their attorneys shall maintain the **confidentiality** of all **information** in the court's file. Other persons authorized access to the file are subject to such conditions as the court may set with notice to the parties.

**(b) Foster Parent's Right to Review.** A foster parent may have access to court records relating to a child whom the Department has placed with the foster parent or whom the Department proposes for placement. When a case involves more than one child, but the foster parent does not have custody of all the children in the case, the foster parent may have access only to those portions of the court records that relate to the child whom the Department has placed or proposed for placement with the foster parent. The foster parent must maintain the confidentiality of all parts of the record. For purposes of this rule, "foster parent" includes current and proposed foster parents.

**(c) Child's Name or Picture.** The name or picture of a child who is the subject of a CINA proceeding may not be made available to the public unless authorized by court order accompanied by a written statement reciting the circumstances which support such authorization, or unless necessary to implement the permanency plan for the child after all parental rights of custody have been terminated.

CREDIT(S)

[Amended effective July 15, 1995; July 15, 1999; Order No. 1580 dated July 7, 2005, effective nunc pro tunc to July 1, 2005.]

**NOTE**

AS 47.10.092, added by ch. 98, § 2, SLA 1994, affects CINA Rule 22 by authorizing the parent or legal guardian of a minor subject to a proceeding under AS 47.10.010-.142 to disclose **confidential** or privileged **information** about the minor, including **information** lawfully obtained from a court file, to the governor, the lieutenant governor, a legislator, the ombudsman appointed under AS 24.55, the attorney general, and the commissioners of health and social services, administration, or public safety, or an employee of these persons, for review or use

Child in Need of Aid Rules, Rule 22

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in their official capacities. A person to whom such disclosure is made may not disclose **confidential** or privileged **information** about the minor to a person not authorized to receive it.

Chapter 64, section 55, SLA 2005 (HB 53) amended Child in Need of Aid Rule 22. The change to CINA Rule 22 is adopted for the sole reason that the legislature has mandated the amendment. In addition, according to section 61(b) of the Act, sections 19 and 22-27 have the effect of changing CINA Rule 22 by allowing the disclosure of **confidential information** pertaining to a child, including allowing a child's name or picture to be made public in certain circumstances.

#### CROSS REFERENCES

AS 47.10.090; 25 U.S.C. § 1912(c).

#### PUBLISHER'S NOTE

Laws 1998, c. 99, §§ 34 and 35, which amended AS 47.10.090(e) and AS 47.10.092(a) respectively, amended Rule 22 "regarding access to, and disclosure of, **confidential information** pertaining to child-in-need-of-aid proceedings." Laws 1998, c. 99, § 78.

Child in Need of Aid Rule 22, AK R CINA Rule 22

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Alaska Court Rules

 Rules of Civil Procedure     Part XII. Special Proceedings        → **Rule 90.1. Dissolution of Marriage, Divorce, and Legal Separation Actions****(a) Dissolution of Marriage.**

(1) *Commencement of Action.* An action for dissolution of marriage under AS 25.24.200-.260 shall be commenced by the filing of a petition in superior court containing the recitations required by statute. The petition may not be filed more than 60 days after the date of the signature of the first person signing the petition.

(2) *Verification.* The petition shall be signed and verified by both petitioners if the petition is filed by husband and wife together or by the petitioner filing the action if filed separately.

(3) *Form of Petition.* The petition may be filed on forms approved by the supreme court. Information may be inserted on the form in legible handwriting.

**(b) Divorce Actions--Corroborating Witnesses Not Required.** No corroborating witnesses as to legal residence shall be required in any divorce action unless ordered by the court; provided however, that the evidence of such residence shall be specific as to time, place, and manner of residence, and to the pertinent facts in the knowledge of the party attending to corroborate such residence.

**(c) Hearing of Divorce and Dissolution Cases.** Unless otherwise ordered upon good cause shown, no divorce or dissolution action shall be tried or heard on the merits within thirty days of the filing of the complaint.

**(d) Divorce Actions--Discovery and Disclosure.** Discovery and disclosure in divorce actions is governed by Civil Rule 26.1.

**(e) Divorce Actions--Property Division Table.** In divorce cases involving property division disputes, and unless otherwise ordered by the court, the parties shall file and serve the information required by this paragraph 5 days before trial is scheduled to begin. The required information consists of:

(1) a list, including a brief description of all assets and liabilities of the parties, whether owned jointly or individually;

(2) whether the party asserts each asset or liability is marital property, separate property of the husband, or separate property of the wife;

(3) the value of each asset and liability; and

(4) the proposed disposition, if any, of each asset or liability.

**(f) Confidential Information.**

(1) *Social Security Numbers.* Social security numbers, when required, shall not become part of the public record and shall be provided to the court **confidentially** as follows:

(A) A petition for dissolution or a complaint and answer for divorce, custody, legal separation, or annulment must be accompanied by an **information** sheet stating the name, date of birth, and social security number of each party to the action and each child who is or may be subject to a child support order in the action, to the extent known. The **information** sheet is **confidential** and shall not be **considered** part of the public record. The clerk of court shall provide a copy of the **confidential information** sheet to the Child Support Services Division upon request or whenever the court provides a child support order to a child support agency as required by state law. The clerk of court may also disclose the social security numbers on the **confidential information** sheet to the Bureau of Vital Statistics upon entry of a decree of divorce, dissolution, legal separation, or annulment of marriage, as required by state law. Further disclosure shall be authorized by court order only upon a showing of good cause.

(B) Once a complete **confidential information** sheet has been submitted to the court listing names, dates of birth, and social security numbers as required, the parties shall omit or redact social security numbers from documents subsequently filed in the action unless otherwise ordered by the court.

(C) A person whose interest in confidentiality may be adversely affected by disclosure of a social security number on a document filed in an action may move for an order requiring (i) the social security number to be redacted or the document to be treated as confidential, if the document has already been filed with the social security number included, or (ii) the document to be filed with the social security number redacted, if the document has not yet been filed.

(2) *Financial Account Numbers.* Unless otherwise ordered by the court, financial account numbers, when required under subsection (e) of this rule or when submitted in support of a motion, need not be provided in full. To protect against public disclosure of sensitive financial information, partial account numbers may be provided, as follows:

(A) a party may identify any credit card, bank card, or debit card account by using only the last four digits of the account number and the name of the issuing institution;

(B) a party may identify any bank, credit union, or other financial institution account by using only the last three digits of the account number and the name of the financial institution; and

(C) a person whose interest in confidentiality may be adversely affected by disclosure of a financial account number on a document filed in an action may move for an order requiring (i) the financial account number to be redacted or the document to be treated as confidential, if the document has already been filed with the financial account number included, or (ii) the document to be filed with the financial account number redacted, if the document has not yet been filed.

**(g) Qualified Domestic Relations Orders.** The party submitting a proposed Qualified Domestic Relations Order, or any similar order requiring the social security number of the beneficiary and alternate payee, shall submit a duplicate of the original proposed order with the social security number of the beneficiary and alternate payee redacted. The original proposed order is **confidential** and shall not be **considered** part of the public record. Only the redacted duplicate shall become part of the public case file.

**(h) Applicability.** Subsections (f) and (g) of this rule apply to documents filed with the court on or after October 15, 2006.

**(i) Action for Divorce, Dissolution, or Annulment Filed After Action for Legal Separation.**

(1) *Notice of Legal Separation Action.* A divorce, dissolution, or annulment action that is filed after the filing of an action for legal separation must include notice of the prior action.

(2) *Consolidation of Cases.* The consolidation of a divorce, dissolution, or annulment action with a legal separation action previously filed in Alaska is governed by AS 25.24.430 and Civil Rule 42(a).

**(j) Action for Legal Separation--Commencement.** An action for legal separation under AS 25.24.400-460 is commenced by the filing of a complaint in the superior court.

**CREDIT(S)**

[Amended effective August 15, 1987; July 15, 1989; July 15, 1995; July 15, 1997; July 15, 1998; amended by Order No. 1595 dated March 22, 2006, effective October 15, 2006; amended by Order No. 1596 dated April 12, 2006, effective October 15, 2006.]

**NOTE**

Sections 41, 43, 45, and 46 of chapter 87 SLA 1997 amend AS 25.20.050(n), AS 25.24.160(d), AS 25.24.210(e), and AS 25.24.230(i), respectively, to require that an order or acknowledgement of paternity, a divorce decree, a petition for dissolution of marriage, and a dissolution decree include the social security number of each party to the action and each child whose rights are being addressed. According to § 151 of the Act, these provisions have

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the effect of amending Civil Rules 52, 58, 78, and 90.1 by requiring the court to include social security numbers, if ascertainable, of parties and children in certain petitions, pleadings, and judgments.

Rules Civ. Proc., Rule 90.1, AK R RCP Rule 90.1

Current with amendments received through 9/15/2010

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