



REPRESENTATIVE CATHY MUÑOZ

MEMORANDUM

To: Rep. Carl Gatto, Chairman
House Judiciary Committee

From: Christopher Clark, Aide
Rep. Cathy Muñoz

Date: March 19, 2012

Re: Sectional analysis of CSHB 343 (HSS), relating to the disclosure of children's records

Kindly note that a sectional analysis of a bill or resolution should not be considered an authoritative interpretation of the measure itself. The legislation itself is the best statement of its contents.

Section 1. Amends AS 47.10.093(b), the state law on the disclosure of agency records that relates to children in need of aid, by adding two new subsections to allow the state Office of Children's Services to:

- Disclose confidential information regarding a child's case to a licensed child placement agency as needed to provide services for that child. See subsection (14), page 2, lines 30-31.
- Exchange current and historical case management records with the state Division of Juvenile Justice and agencies in other jurisdictions that are responsible for delinquent minors. See subsection (15), page 3, lines 1-4.

Section 2. Amends AS 47.12.310(b), the state law on agency records that relates to delinquent minors, by adding two new subsections to allow the state Division of Juvenile Justice to:

- Disclose confidential information regarding a case of a minor, who is subject to the jurisdiction of a court, to a licensed child placement agency as needed to provide services for that child. See subsection (L), page 4, lines 14-16.
- Exchange current and historical case management records with the state Office of Children's Services and agencies in other jurisdictions that are responsible for child protection services. See subsection (M), page 34, lines 17-21.

Section 3. Amends AS 47.12.310(f), the state law on agency records that relates to delinquent minors, by allowing the Division of Juvenile Justice to adopt regulations delineating what information it may release to someone who has a legitimate interest in a minor who is subject to the jurisdiction of the state Department of Health and Social Services. The provision also allows the division to set standards for identifying a legitimate interest in such records. See page 4, lines 26-31, and page 5, line 1.

Current law does not allow the division to release certain information about minors while they were under the jurisdiction of a court. A problem arises when former clients ask the agency for records about their contacts with the department while they were minors. The existing law would allow the agency to release information only if a minor's charges had been adjusted or if the minor had been placed on informal probation. Anything related to adjudications would not be available for release. This restriction can hurt those who need records for legitimate reasons such as applying for a job, obtaining student loans, or getting health care. This proposal is intended to help them as well as parents, guardians, or others who have a legitimate interest in this.

Section 4. Repeals and reenacts AS 47.12.315, the statute on public disclosure of information in agency records relating to certain minors. See page 5, lines 2-31, and page 6, lines 1-18.

This allows the Department of Health and Social Services to disclose information to the public, upon request, concerning a minor who is subject to the law on delinquent minors, AS 47.12. A child is someone who is at least 13 years of age at the time of committing a felony offense such as murder, manslaughter, assault, kidnapping, and other crimes as described under AS 11.41 as well as arson in the first or second degree, burglary in the first degree, distribution of child pornography, promoting prostitution in the first degree, misconduct involving a controlled substance in the first, second, or third degrees involving distribution or possession with intent to deliver, or misconduct involving weapons in the first through fifth degrees.

Current law allows public disclosure on informal adjustments for specified crimes or offenders who were previously adjudicated on any felony and are petitioned again for another felony.

This bill allows public disclosure if the Department of Health and Social Services has filed a petition seeking adjudication of a minor, a court has arraigned the minor on the petition, and the court has entered a finding that probable cause exists that the minor committed a delinquent act.

This new section will ensure that a juvenile's arrest on a charge that was determined by a judge to lack legal sufficiency will not be subject to public disclosure.

Other subsections describe what may be disclosed and prohibit releasing names of victims and out-of-home care providers. They allow the agency to disclose information electronically recovered from a computer database and prohibit the release of records after five years from the date the state is first required or authorized to make a disclosure. They would allow the department to petition a court for an order prohibiting disclosure if the court finds the crime was an isolated incident and the minor does not present any further danger to the public or if the victim agrees disclosure is inappropriate.

The final subsection defines out-of-home provider as someone who is other than a child's legal parents and with whom that minor is in state custody. This includes a foster parent, a child's relative, and a person who seeks to adopt or become a guardian of the minor.

Section 5. Amends uncodified law by adding a new section to allow the Department of Health and Social Services to adopt regulations as necessary to implement the changes made by this legislation.

Section 6. Provides for an immediate effective date for section 5.

Section 7. Provides an effective date for sections 1 through 4 of July 1, 2012.