

CS FOR HOUSE BILL NO. 125(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/17/95

Referred: Judiciary

Sponsor(s): REPRESENTATIVES GREEN, Toohey, Bunde, Phillips

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to disclosures to school officials of information about certain
2 minors."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 47.10.060(e) is amended to read:

5 (e) A person who has been tried as an adult under this section, or the
6 department on the person's behalf, may petition the superior court to seal the records
7 of all criminal proceedings, except traffic offenses, initiated against the person, and all
8 punishments assessed against the person, while the person was a minor. A petition
9 under this subsection may not be filed until five years after the completion of the
10 sentence imposed for the offense for which the person was tried as an adult. If the
11 superior court finds that the punishment assessed against the person has had its
12 intended rehabilitative effect and further finds that the person has fulfilled all orders
13 of the court entered under AS 47.10.080(b), the superior court shall order the record
14 of proceedings and the record of punishments sealed. Sealing the records restores civil

1 rights removed because of a conviction. A person may not use these sealed records
2 for any purpose except that the court may order their use for good cause shown or may
3 order their use by an officer of the court in making a presentencing report for the
4 court. The court may not, under this subsection, seal records of a criminal proceeding

5 (1) **that are subject to disclosure under AS 47.10.090(f);**

6 (2) initiated against a person if the court finds that the person has not
7 complied with a court order made under AS 47.10.080(b); or

8 (3) [(2)] commenced under AS 47.10.010(e) unless the minor has been
9 acquitted of all offenses with which the minor was charged or unless the most serious
10 offense of which the minor was convicted was not an offense specified in
11 AS 47.10.010(e)(1) or (2).

12 * **Sec. 2.** AS 47.10.090(c) is amended to read:

13 (c) Within 30 days of the date of a minor's 18th birthday or, if the court
14 retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the
15 date on which the court releases jurisdiction over the minor, the court shall order all
16 the court's official records pertaining to that minor, **except the records that are**
17 **subject to disclosure under (f) of this section,** sealed. **The court order directing**
18 **that the records be sealed must include the** [, AS WELL AS] records of all driver's
19 license proceedings under AS 28.15.185, **of all** criminal proceedings against the minor
20 **except the records of criminal proceedings that are subject to disclosure under (f)**
21 **of this section,** and **of all** punishments assessed against the minor, **except records of**
22 **punishments that are subject to disclosure under (f) of this section.** A person may
23 not use these sealed records for any purpose except that the court may order their use
24 for good cause shown or may order their use by an officer of the court in making a
25 presentencing report for the court. The provisions of this subsection relating to the
26 sealing of records do not apply to records of traffic offenses.

27 * **Sec. 3.** AS 47.10.090(d) is amended to read:

28 (d) **Except as provided by (f) of this section, the** [THE] name or picture of
29 a minor under the jurisdiction of the court may not be made public in connection with
30 the minor's status as a delinquent child or a child in need of aid unless authorized by
31 order of the court.

1 * **Sec. 4.** AS 47.10.090(e) is amended to read:

2 (e) The court's official records that, under this chapter, **are required to be**
3 **confidential or that have been sealed** may be inspected only with the court's
4 permission and only by persons having a legitimate interest in them. A person with
5 a legitimate interest in the inspection of an official record maintained by the court
6 includes a victim who suffered physical injury or whose real or personal property was
7 damaged as a result of an offense that was the basis of an adjudication or modification
8 of disposition. If the victim knows the identity of the minor, identifies the minor or
9 the offense to the court, and certifies that the information is being sought to consider
10 or support a civil action against the minor or against the minor's parents or guardians
11 under AS 34.50.020, the court shall, subject to AS 12.61.110 and 12.61.140, allow the
12 victim to inspect and use the following records and information in connection with the
13 civil action:

14 (1) a petition filed under AS 47.10.010(a)(1) seeking to have the court
15 declare the minor a delinquent;

16 (2) a petition filed under AS 47.10.080 seeking to have the court
17 modify or revoke the minor's probation;

18 (3) a petition filed under AS 47.10.060 requesting the court to find that
19 a minor is not amenable to treatment under this chapter and that results in closure of
20 a case under AS 47.10.060(a); and

21 (4) a court judgment or order entered under AS 47.10.010 - 47.10.142
22 that disposes of a petition identified in (1) - (3) of this subsection.

23 * **Sec. 5.** AS 47.10.090 is amended by adding a new subsection to read:

24 (f) If a minor who has been adjudicated delinquent is enrolled in school, the
25 clerk of the court in which the adjudication order is entered

26 (1) shall transmit a copy of the court's adjudication order to the
27 principal of the minor's school if

28 (A) the minor has been adjudicated delinquent for committing
29 an offense on the school's property; or

30 (B) the minor has been adjudicated delinquent for committing
31 one or more of the following acts that, if committed by an adult, would be a

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violation of

(i) AS 11.41 and the violation is punishable as a felony;

(ii) AS 11.46.100 - 11.46.490 and the violation is punishable as a felony;

(iii) AS 11.71 and the violation is punishable as a felony; or

(iv) a statute defining a criminal offense if the offense involved the possession or use of a deadly weapon, as that term is defined by AS 11.81.900(b);

(2) shall provide with the copy of the adjudication order a notice to the principal that the copy of the order may not be disclosed except as provided in AS 47.10.093(h); and

(3) shall maintain a record of the adjudication order released to the principal under this subsection and the basis for its release.

* **Sec. 6.** AS 47.10.093(a) is amended to read:

(a) Except as specified in AS 47.10.092 and (b) - (f), **and (h)** 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.

* **Sec. 7.** AS 47.10.093(c) is amended to read:

(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 AS 47.10.020;

(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) **shall notify the principal who shall notify the appropriate teacher of the school attended by a minor who is subject to AS 47.10.010 -**

1 47.10.142 and [MAY] disclose to that school official information

2 (A) about an incident occurring within the agency's
3 jurisdiction if the law enforcement agency has probable cause to believe
4 that the minor has committed an offense that would be a crime if
5 committed as an adult and

6 (i) that the victim of the offense is a student or staff
7 member of the school and that notice to the school is reasonably
8 necessary for the protection of the victim; or

9 (ii) is an offense described in AS 47.10.090(f)(1)(B);
10 or

11 (B) [OFFICIALS INFORMATION] regarding a case not
12 required to be disclosed under (A) of this paragraph [AS MAY BE
13 NECESSARY] to protect the safety of school students and staff;

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

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

18 * **Sec. 8.** AS 47.10.093 is amended by adding new subsections to read:

19 (h) When information or a record is disclosed to a school principal under
20 (c)(3) of this section or under AS 47.10.090(f), the school principal may disclose the
21 information only to persons employed by that school district or to the chief
22 administrative officer of a school district to which the minor transfers.

23 (i) Notwithstanding (c)(3) of this section, a state or municipal law enforcement
24 agency is not required to notify the principal of a school under (c) of this section if
25 the agency determines that notice would jeopardize an ongoing investigation.

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