

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/30/97

Referred: Rules

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 47.12.110 is amended by adding a new subsection to read:

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

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

12 (A) the minor's alleged commission of an offense, and the
13 minor has knowingly failed to comply with all the terms and conditions
14 required of the minor by the department or imposed on the minor in a court

1 order entered under AS 47.12.040(a)(2) or 47.12.120;

2 (B) the minor's alleged commission of

3 (i) a crime against a person that is punishable as a
4 felony;

5 (ii) a crime in which the minor employed a deadly
6 weapon, as that term is defined in AS 11.81.900(b), in committing the
7 crime;

8 (iii) arson under AS 11.46.400 - 11.46.410;

9 (iv) burglary under AS 11.46.300;

10 (v) distribution of child pornography under
11 AS 11.61.125;

12 (vi) promoting prostitution in the first degree under
13 AS 11.66.110; or

14 (vii) misconduct involving a controlled substance under
15 AS 11.71 involving the delivery of a controlled substance or the
16 possession of a controlled substance with intent to deliver, other than
17 an offense under AS 11.71.040 or 11.71.050; or

18 (C) the minor's alleged commission of a felony and the minor
19 was 16 years of age or older at the time of commission of the offense when the
20 minor has previously been convicted or adjudicated a delinquent minor based
21 on the minor's commission of an offense that is a felony; or

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

24 * **Sec. 2.** AS 47.12.300(c) is amended to read:

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

29 * **Sec. 3.** AS 47.12.310(a) is amended to read:

30 (a) Except as specified in **AS 47.12.315, 47.12.320,** [AS 47.12.320] and (b) -
31 (g) of this section, all information and social records pertaining to a minor who is

1 subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state,
2 or municipal agency or employee in the discharge of the agency's or employee's
3 official duty, including driver's license actions under AS 28.15.185, are privileged and
4 may not be disclosed directly or indirectly to anyone without a court order.

5 * **Sec. 4.** AS 47.12.310(b) is amended to read:

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

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

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

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

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

19 (5) a state or municipal law enforcement agency as may be necessary
20 for a specific investigation being conducted by that agency or for disclosures by that
21 agency to protect the public safety; and

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

24 * **Sec. 5.** AS 47.12.310(c) is amended to read:

25 (c) A state or municipal law enforcement agency

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

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

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

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

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

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

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

18 * **Sec. 7.** AS 47.12 is amended by adding a new section to read:

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

23 (1) shall disclose to the public the name of a minor, the name or names
 24 of the parent, parents, or guardian of the minor, the action required by the agency to
 25 be taken by the minor under AS 47.12.060 to adjust the matter, and information about
 26 the offense exclusive of information that identifies the victim of the offense, if the
 27 minor was, under AS 47.12.020, previously alleged to be a delinquent minor on the
 28 basis of the minor's commission of at least one offense and, on the basis of that
 29 allegation, a state agency has, under AS 47.12.040(a), been asked to make a
 30 preliminary inquiry to determine if any action on that matter is appropriate, and, if the
 31 minor is alleged to be a delinquent minor on the basis of the minor's commission of

1 another offense, exercise of agency jurisdiction is based on the minor's alleged
2 commission of that other offense, and that other offense is one of the following:

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

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

6 (C) arson under AS 11.46.400 - 11.46.410;

7 (D) burglary under AS 11.46.300;

8 (E) distribution of child pornography under AS 11.61.125;

9 (F) promoting prostitution in the first degree under
10 AS 11.66.110; or

11 (G) misconduct involving a controlled substance under
12 AS 11.71 involving the delivery of a controlled substance or the possession of
13 a controlled substance with intent to deliver, other than an offense under
14 AS 11.71.040 or 11.71.050; and

15 (2) may disclose to the public the name of a minor, the name or names
16 of the parent, parents, or guardian of the minor, the action required by the agency to
17 be taken by the minor under AS 47.12.060 to adjust the matter, and information about
18 the offense exclusive of information that identifies the victim of the offense if the
19 minor has knowingly failed to comply with all terms and conditions required of the
20 minor by the agency to adjust the matter under AS 47.12.060(b).

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

27 (1) the minor's alleged commission of an offense, and the minor has
28 knowingly failed to comply with all the terms and conditions required of the minor by
29 the department or imposed on the minor in a court order entered under
30 AS 47.12.040(a)(2) or 47.12.120;

31 (2) the minor's alleged commission of

- 1 (A) a crime against a person that is punishable as a felony;
 2 (B) a crime in which the minor employed a deadly weapon, as
 3 that term is defined in AS 11.81.900(b), in committing the crime;
 4 (C) arson under AS 11.46.400 - 11.46.410;
 5 (D) burglary under AS 11.46.300;
 6 (E) distribution of child pornography under AS 11.61.125;
 7 (F) promoting prostitution in the first degree under
 8 AS 11.66.110; or
 9 (G) misconduct involving a controlled substance under
 10 AS 11.71 involving the delivery of a controlled substance or the possession of
 11 a controlled substance with intent to deliver, other than an offense under
 12 AS 11.71.040 or 11.71.050; or

13 (3) the minor's alleged commission of a felony and the minor was 16
 14 years of age or older at the time of commission of the offense when the minor has
 15 previously been convicted or adjudicated a delinquent minor based on the minor's
 16 commission of an offense that is a felony.

17 (c) If, under AS 47.12.060(a), the agency determines that a matter should be
 18 dismissed or if, under AS 47.12.120(c), the court finds that a minor is not delinquent
 19 and dismisses the case against the minor, the minor may request the department to
 20 disclose information about the matter or the case to the public. If the minor makes a
 21 request under this subsection, the department shall disclose to the public information
 22 about the disposition of the matter or case under AS 47.12.060(a) or 47.12.120(c), as
 23 appropriate, exclusive of information that identifies the victim of the alleged offense.

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

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

30 (2) if the department or other agency maintains the information to be
 31 disclosed by electronic means that can be recovered from a computer data base, the

1 department or agency may disclose the information in that medium.

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

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

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

12 (f) When disclosure is required under this section, the department may petition
13 the court for an order prohibiting the disclosure. The court may grant the petition if,
14 on the basis of information presented in the petition or at an in camera hearing held
15 on the petition, the court finds that

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

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

19 * **Sec. 8.** Rule 3(c), Alaska Delinquency Rules, is amended to read:

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

29 * **Sec. 9.** APPLICABILITY. In AS 47.12.315, added by sec. 7 of this Act, when
30 disclosure of information is dependent on the minor's previous conviction or adjudication as
31 a delinquent, or on the minor's failure to comply with all terms and conditions required of or

1 imposed on the minor, the Department of Health and Social Services or other agency required
2 to make the disclosure shall consider the minor's previous conviction or delinquency
3 adjudication, or a term or condition required or imposed on the minor, that occurred before
4 the effective date of this Act, but may not consider a conviction or adjudication that occurred
5 or a term or condition that was required or imposed earlier than five years before the effective
6 date of this Act.