

HOUSE BILL NO. 453

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE DYSON

Introduced: 2/18/98

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to juvenile records, to criminal records of those associated with
2 juveniles, and to foster care, child care facilities, residential child care facilities,
3 child placement agencies, and maternity homes."

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

5 * **Section 1.** AS 47.10.093(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 board or local review panel for permanency planning authorized by AS 47.14.200 or
10 47.14.220;

11 (2) a person or an agency requested to provide consultation or services
12 for a minor who is subject to the jurisdiction of the court under AS 47.10.010;

13 (3) school officials as may be necessary to enable the school to provide
14 appropriate counseling and support services to the minor who is the subject of the

1 case, to protect the safety of the minor who is the subject of the case, and to protect
2 the safety of school students and staff;

3 (4) a governmental agency as may be necessary to obtain that agency's
4 assistance for the department in its investigation or to obtain physical custody of a
5 child; [AND]

6 (5) a [STATE OR MUNICIPAL] law enforcement agency **of this state**
7 **or another jurisdiction** as may be necessary for **the protection of any minor** [A
8 SPECIFIC INVESTIGATION BEING CONDUCTED BY THAT AGENCY] or for
9 **actions** [DISCLOSURES] by that agency to protect the public safety;

10 **(6) the state medical examiner under AS 12.65; and**

11 **(7) a person who has made a report of harm as required by**
12 **AS 47.17.020 to inform the person that the investigation was completed and of**
13 **any action taken to protect the child who was the subject of the report.**

14 * **Sec. 2.** AS 47.10.093 is amended by adding a new subsection to read:

15 (k) A state or municipal agency or employee shall disclose information
16 regarding a case to a foster parent or to the administrator of a facility or an agency
17 concerning a minor placed with the foster parent, facility, or agency as may be
18 necessary to protect the safety of the minor who is the subject of the case and the
19 safety of the foster parent and all persons residing with the foster parent and of the
20 employees and residents of the facility or agency.

21 * **Sec. 3.** AS 47.12.310(b) is amended to read:

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

24 (1) a guardian ad litem appointed by the court or to a citizen review
25 board or local review panel for permanency planning authorized by AS 47.14.200 -
26 47.14.220;

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

29 (3) school officials as may be necessary to protect the safety of the
30 minor who is the subject of the case and the safety of school students and staff or to
31 enable the school to provide appropriate counseling and supportive services to meet

1 the needs of a minor about whom information is disclosed;

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

5 (5) a [STATE OR MUNICIPAL] law enforcement agency **of this state**
6 **or another jurisdiction** as may be necessary for **the protection, rehabilitation, or**
7 **supervision of any minor** [A SPECIFIC INVESTIGATION BEING CONDUCTED
8 BY THAT AGENCY] or for **actions** [DISCLOSURES] by that agency to protect the
9 public safety; [AND]

10 (6) a victim as may be necessary to inform the victim about the
11 disposition or resolution of a case involving a minor; **and**

12 **(7) the state medical examiner under AS 12.65.**

13 * **Sec. 4.** AS 47.12.310 is amended by adding a new subsection to read:

14 (k) A state or municipal agency or employee shall disclose information
15 regarding a case to a foster parent or to the administrator of a facility or an agency
16 concerning a minor placed with the foster parent, facility, or agency as may be
17 necessary to protect the safety of the minor who is the subject of the case and the
18 safety of the foster parent and all persons residing with the foster parent and of the
19 employees and residents of the facility or agency.

20 * **Sec. 5.** AS 47.17 is amended by adding a new section to read:

21 **Sec. 47.17.033. Investigations.** (a) In investigating a report of child abuse
22 or neglect under this chapter, the department may make necessary inquiries about the
23 criminal records of the parents or of the alleged abusive or neglectful person, including
24 inquiries about the existence of a criminal history record involving a serious offense
25 as defined in AS 12.62.900.

26 (b) For purposes of obtaining access to information needed to conduct an
27 inquiry under (a) of this section, the department is a criminal justice agency conducting
28 a criminal justice activity.

29 * **Sec. 6.** AS 47.35.017(b) is amended to read:

30 (b) An application submitted under this section must contain at least the
31 following information:

1 (1) the name and address of the applicant [,] and, if the applicant is an
2 agency, corporation, partnership, association, or any other form of organization, the
3 name, address, and title of **each individual** [ALL INDIVIDUALS] who **has** [HAVE]
4 an ownership or management interest in the facility;

5 (2) the name, physical location, and mailing address of the facility or
6 agency for which the license is sought;

7 (3) the name and address of the administrator of the facility or agency,
8 if any;

9 (4) evidence that the administrator or foster parent is an adult with
10 sufficient experience, training, or education to fulfill the duties of an administrator or
11 foster parent;

12 (5) a release for the administrator or foster parent and for each other
13 person **older than five years of age**, as specified by the department by regulation, who
14 will have contact with individuals served by the facility or agency, authorizing the
15 department to review all **criminal justice information, whether of this state or a**
16 **municipality of this state or of another jurisdiction** [FEDERAL, STATE, AND
17 MUNICIPAL LAW ENFORCEMENT], **and all** medical, licensing, and protective
18 services records [,] identified in regulations adopted under this chapter, that are
19 relevant to the person who is the subject of the release and to the type of license for
20 which the application has been submitted;

21 (6) **two sets of fingerprints for each person required to provide a**
22 **release under (5) of this subsection in order for the department to submit the**
23 **fingerprints to the Department of Public Safety for the purpose of conducting**
24 **state and national criminal background checks from criminal justice information**
25 **received under AS 12.62 and regulations adopted under AS 12.62;**

26 (7) for a facility, the number of individuals that will be served in the
27 facility;

28 (8) [7] the type of facility or agency for which the license is sought;

29 (9) [8] copies of all inspection reports and approvals required by state
30 fire prevention and environmental health and safety authorities for operation of the
31 facility or agency, including any variances granted by these authorities;

1 (10) [9] a plan of operation, as required by the department by
2 regulation;

3 (11) [10] a staffing plan that describes the number of people who will
4 work at the facility or agency, staff qualifications, a description of each person's
5 responsibilities, and, for a facility other than a maternity home, a supervision schedule
6 for the children in care that meets the requirements established by the department by
7 regulation;

8 (12) [11] evidence that the applicant has completed orientation or
9 training required by the department [,] by regulation [,] for holders of the type of
10 license for which the application was submitted; and

11 (13) [12] other information required by the department [,] by
12 regulation [,] in order to monitor compliance with this chapter and regulations adopted
13 under this chapter.

14 * **Sec. 7.** AS 47.35 is amended by adding a new section to read:

15 **Sec. 47.35.022. Foster care placement.** (a) The department may not place
16 or continue placement of a child for care for payment under AS 47.10 in a foster home
17 that is licensed under this chapter if the department finds that a person for whom
18 fingerprints are required to be submitted for licensure of the foster home is currently
19 under arrest for or charged with, or has been convicted of or found not guilty by
20 reason of insanity of, a serious offense.

21 (b) Notwithstanding (a) of this section, the department may place or continue
22 a placement for foster care if the applicant or licensee demonstrates to the satisfaction
23 of the department that the applicant, licensee, or other person committed the conduct
24 described in (a) of this section at least five years before the placement, and the conduct

25 (1) did not involve a victim who was under 18 years of age at the time
26 that the conduct occurred;

27 (2) was not a crime involving domestic violence as defined in
28 AS 18.66.990; and

29 (3) was not a crime under AS 11.41.100 - 11.41.455, or a law or an
30 ordinance of another jurisdiction having similar elements.

31 (c) The department shall develop procedures for rechecking criminal justice

1 information records for the information described in (a) of this section for persons over
2 the age of five in a licensed foster home with access to children placed by the
3 department.

4 * **Sec. 8.** AS 47.35.023(b) is repealed and reenacted to read:

5 (b) Notwithstanding (a) of this section, if an emergency exists and a child must
6 be immediately placed, the department or the department's designee may issue a
7 provisional foster home license on an emergency basis for a period of 90 days or less
8 if the department or the department's designee determines that the applicant meets
9 minimal requirements for emergency conditions and the applicant agrees in writing to
10 provide the fingerprint information described in AS 47.35.017(b) within 30 days of the
11 placement of a child in the foster home. The department may not issue a license under
12 this subsection before checking state and national criminal justice information available
13 to the department under AS 12.62 and regulations adopted under AS 12.62 about the
14 administrator or foster parent and each person older than five years of age in the foster
15 home who will have contact with the child. If the department cannot obtain direct
16 access to the state and federal criminal justice information, the department shall request
17 the agency having primary law enforcement responsibility for the geographic area in
18 which the prospective foster home is located to obtain the information and provide it
19 to the department before the license is issued under this section. If the criminal justice
20 information readily available to the department shows an offense for which a person
21 would be required to notify the department under AS 47.35.047(b), the department may
22 not issue the license under this subsection. If the additional criminal justice
23 information available from the fingerprint search or another source after the license is
24 issued reveals that the person has a record for one or more of these offenses, the
25 department shall immediately revoke the license and move the child to an appropriate
26 placement. For purposes of obtaining criminal justice information under this
27 subsection, the department is a criminal justice agency conducting a criminal justice
28 activity under AS 12.62.

29 * **Sec. 9.** AS 47.35.047(b) is amended to read:

30 (b) A licensee shall notify the department within 24 hours after having
31 knowledge of a conviction or indictment, presentment, or charging by information or

1 complaint of an administrator, foster parent, member of the licensee's household,
 2 regular volunteer, or staff person for a **violation of the following laws, or the laws**
 3 **of another jurisdiction with similar elements:**

4 **(1) offenses against the family and vulnerable adults under**
 5 **AS 11.51;**

6 **(2) perjury under AS 11.56.200;**

7 **(3) offenses included in the definition of serious offense under**
 8 **AS 12.62.900** [FELONY, FOR A MISDEMEANOR CRIME OF ASSAULT,
 9 RECKLESS ENDANGERMENT, CONTRIBUTING TO THE DELINQUENCY OF
 10 A MINOR, OR MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE, FOR
 11 THE CRIME OF PERJURY, AS DEFINED IN AS 11 OR THE LAWS OF
 12 ANOTHER JURISDICTION, OR FOR A SEX CRIME AS DEFINED IN
 13 AS 12.62.035].

14 * **Sec. 10.** AS 47.35.900 is amended by adding new paragraphs to read:

15 (20) "criminal justice information" has the meaning given in
 16 AS 12.62.900;

17 (21) "domestic violence" has the meaning given in AS 18.66.990;

18 (22) "serious offense" has the meaning given in AS 12.62.900.