

CS FOR SENATE BILL NO. 179(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 5/10/03

Referred: Finance

Sponsor(s): SENATOR THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to criminal history records and background checks; allowing persons**
2 **to teach in the public schools for up to five months without a teaching certificate if the**
3 **person has applied for a certificate and the application has not been acted upon by the**
4 **Department of Education and Early Development; allowing teacher certification for**
5 **certain persons based on a criminal history background check without fingerprints; and**
6 **providing for an effective date."**

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

8 * **Section 1.** AS 04.11.295(a) is amended to read:

9 (a) An applicant for the issuance or transfer of a license **or permit** under this
10 title shall submit to the board, with the application, the applicant's fingerprints and the
11 fees required by the Department of Public Safety **under AS 12.62.160** for criminal
12 justice information and a national criminal history record check. The board may
13 require an applicant for renewal of a license under this title to submit fingerprints and

1 pay fees as required by this subsection. The board shall submit the fingerprints to the
 2 Department of Public Safety to obtain a report of criminal justice information under
 3 AS 12.62 and a national criminal history record check under AS 12.62.400. The
 4 Department of Public Safety may submit the fingerprints to the Federal Bureau of
 5 Investigation for a national criminal history record check. The board shall use the
 6 information obtained under this section in its determination of an applicant's
 7 qualification for issuance, transfer, or renewal of a license.

8 * **Sec. 2.** AS 04.11.295(b)(1) is amended to read:

9 (1) "applicant" means all individuals whose names and addresses are
 10 required to be provided with an application for a new license or permit under
 11 AS 04.11.260;

12 * **Sec. 3.** AS 08.08.137 is amended to read:

13 **Sec. 08.08.137. Fingerprints.** The Board of Governors shall require an
 14 applicant for admission to be fingerprinted and provide the fees required by the
 15 Department of Public Safety under AS 12.62.160 for criminal justice information
 16 and a national criminal history record check. The fingerprints and fees shall be
 17 forwarded to the Department of Public Safety to obtain a report of criminal
 18 justice information under AS 12.62 and a national criminal history record check
 19 under AS 12.62.400 [USED TO DETERMINE WHETHER THE APPLICANT HAS
 20 A RECORD OF CRIMINAL CONVICTIONS IN THIS STATE OR ANOTHER
 21 JURISDICTION]. The Board of Governors may use the information obtained from
 22 the fingerprinting only in its official determination of the character and fitness of the
 23 applicant for admission to the Alaska Bar Association.

24 * **Sec. 4.** AS 08.24.120 is amended to read:

25 **Sec. 08.24.120. Application for operator's license.** (a) An application for
 26 an operator's license shall be made on forms furnished by the department and must
 27 contain the information required in AS 08.24.110 and the following:

28 (1) a complete set of fingerprints and the fees required by the
 29 Department of Public Safety under AS 12.62.160 for criminal justice information
 30 and a national criminal history record check;

31 (2) a 2" x 3" photograph showing a front view of head and shoulders;

1 (3) if it is an original application, the application fee;

2 (4) the biennial license fee.

3 (b) The department may make a complete investigation of applicants,
4 including inquiry of police agencies as to the applicant's record of arrest or conviction
5 of crime. **The department shall submit the fingerprints and fees received under**
6 **(a)(1) of this section to the Department of Public Safety for a report of criminal**
7 **justice information under AS 12.62 and a national criminal history record check**
8 **under AS 12.62.400.**

9 * **Sec. 5.** AS 08.68.110(a) is amended by adding a new paragraph to read:

10 (10) require applicants under this chapter to submit fingerprints and the
11 fees required by the Department of Public Safety under AS 12.62.160 for criminal
12 justice information and a national criminal history record check; the department shall
13 submit the fingerprints and fees to the Department of Public Safety for a report of
14 criminal justice information under AS 12.62 and a national criminal history record
15 check under AS 12.62.400.

16 * **Sec. 6.** AS 12.62.160 is amended by adding a new subsection to read:

17 (e) When an interested person requests information under (b)(9) of this
18 section, the department may also conduct a national criminal history record check
19 under AS 12.62.400 if the person submits the fees required for that check under (d) of
20 this section.

21 * **Sec. 7.** AS 12.62 is amended by adding a new section to read:

22 **Article 1A. National Criminal History Record Check.**

23 **Sec. 12.62.400. National criminal history records checks for employment,**
24 **licensing, and noncriminal justice purposes.** (a) When a national criminal history
25 record check is authorized by law and upon receipt of the fingerprints of the person
26 subject to the check and the fees required under AS 12.62.160, the department may
27 submit the fingerprints to the Federal Bureau of Investigation to obtain a national
28 criminal history record check of the person.

29 (b) The department may release the results of the national criminal history
30 record check obtained under (a) of this section to a government agency that

31 (1) is required or authorized by law to evaluate the person's fitness or

1 qualifications for a position, license, or other purpose; or

2 (2) has agreed in writing to evaluate the person's fitness or
 3 qualifications for a position, license, or other purpose on behalf of another person who
 4 is required or authorized by law to evaluate the person's fitness or qualifications but is
 5 not a government agency.

6 * **Sec. 8.** AS 14.20.010 is amended to read:

7 **Sec. 14.20.010. Teacher certificate required.** A person may not be
 8 employed as a teacher in the public schools of the state unless that person possesses a
 9 valid teacher certificate except that a person who has made application to the
 10 department for a teacher certificate, including a preliminary teacher certificate under
 11 AS 14.20.015, or renewal of a teacher certificate that has not been acted upon by the
 12 department may be employed as a teacher in the public schools of the state until the
 13 department has taken action on the application, but in no case may employment
 14 without a certificate last longer than **five** [THREE] months.

15 * **Sec. 9.** AS 14.20.020(c) is amended to read:

16 (c) The board may establish by regulation additional requirements for the
 17 issuance of certificates. **The board shall require teachers to submit fingerprints**
 18 **and the fees required by the Department of Public Safety under AS 12.62.160 for**
 19 **criminal justice information and a national criminal history record check. The**
 20 **board shall submit the fingerprints and fees to the Department of Public Safety**
 21 **for a report of criminal justice information under AS 12.62 and a national**
 22 **criminal history record check under AS 12.62.400.** The department shall establish
 23 by regulation the fees to be charged for each certificate [, INCLUDING FEES FOR
 24 CRIMINAL HISTORY BACKGROUND CHECKS] and for other charges assessed
 25 against teachers as part of certification. In establishing the fees to be charged, the
 26 department shall establish the fee levels so that the total amount of the fees collected
 27 relating to the certification of teachers approximately equals, when added to the other
 28 fees collected from teachers, the actual regulatory costs for certifying and disciplining
 29 teachers in the state. The department shall annually review each fee level to determine
 30 whether the regulatory costs are approximately equal to fee collections. If the review
 31 indicates that fee collections and regulatory costs are not approximately equal, the

1 department shall calculate fee adjustments to the fees for certification of teachers and
 2 adopt regulations under this subsection to implement the adjustments. In January of
 3 each year, the department shall report on all fee levels and revisions for the previous
 4 year under this subsection to the office of management and budget. The department
 5 shall consider the board's recommendations concerning the fee levels and regulatory
 6 costs before revising fee schedules to comply with this subsection. In this subsection,
 7 "regulatory costs" means costs of the department that are attributable to regulation of
 8 the teaching profession, including the portion of the expenses of the board that are
 9 attributable to the regulation of the teaching profession and the expenses of the
 10 Professional Teaching Practices Commission.

11 * **Sec. 10.** AS 14.20.020 is amended by adding a new subsection to read:

12 (j) Whenever required by a provision of this chapter to submit fingerprints to
 13 use for a criminal background check for the purpose of determining a person's
 14 suitability for employment as a teacher, the department shall accept a name-based
 15 criminal history background check on a person from the agency performing the
 16 background check if the

17 (1) person cannot submit legible fingerprint cards due to a permanent
 18 disability that precludes the person's ability to submit fingerprints; or

19 (2) agency informs the department that its examination of at least two
 20 separate sets of fingerprint cards shows that the person's fingerprints are illegible due
 21 to a permanent skin condition.

22 * **Sec. 11.** AS 14.20.022(b) is amended to read:

23 (b) To be eligible for a subject-matter expert limited teacher certificate, a
 24 person shall

25 (1) hold at least a baccalaureate degree from an institution of higher
 26 education accredited by a recognized regional or national accrediting association or
 27 approved by the commissioner and

28 (A) have majored or minored in the subject that the person will
 29 be teaching; or

30 (B) have at least five years experience in the subject matter that
 31 the person will be teaching;

1 (2) have submitted fingerprints **and the fees required by the**
 2 **Department of Public Safety under AS 12.62.160 for criminal justice information**
 3 **and a national criminal history record check** to the department; **the department**
 4 **must have submitted the fingerprints and fees to the Department of Public Safety**
 5 **for a report of criminal justice information under AS 12.62 and a national**
 6 **criminal history record check under AS 12.62.400 and the person must** [TO BE
 7 USED FOR A CRIMINAL HISTORY BACKGROUND CHECK AND] have been
 8 found by the department to be suitable for employment as a teacher under
 9 AS 14.20.020(f); **and**

10 (3) be currently enrolled in an approved post-baccalaureate teacher
 11 education program at a regionally accredited institution meeting the requirements of
 12 AS 14.20.020(b) that provides for completion of the regular teacher certificate
 13 education requirements within two years after receipt of a subject-matter expert
 14 limited teacher certificate under this section [; AND

15 (4) PAY THE FEE REQUIRED BY THE DEPARTMENT UNDER
 16 AS 14.20.020(c) TO DEFRAY THE COST OF THE CRIMINAL HISTORY
 17 BACKGROUND CHECK; THE AMOUNT MAY NOT EXCEED THE FEE
 18 REQUIRED FOR APPLICATION FOR AN INITIAL REGULAR TEACHER
 19 CERTIFICATE].

20 * **Sec. 12.** AS 18.20.302(a) is amended to read:

21 (a) A nursing facility may not employ an individual in a paid position that the
 22 department has determined is covered by this section, according to its regulations,
 23 unless the individual, before beginning employment,

24 (1) provides to the facility a sworn statement as to whether the
 25 individual has been convicted of an offense described in (c) of this section;

26 (2) provides to the facility the results of a name-check criminal
 27 background investigation that was completed by the Department of Public Safety no
 28 more than 30 days before the individual is hired; and

29 (3) submits to the facility two full sets of the individual's fingerprints
 30 **and the fees required under AS 12.62.160 by the Department of Public Safety for**
 31 **criminal justice information under AS 12.62 and a national criminal history**

1 **record check under AS 12.62.400.**

2 * **Sec. 13.** AS 18.20.302(b) is amended to read:

3 (b) Within 30 days after employing an individual in a paid position, a nursing
4 facility shall submit to the Department of Public Safety the fingerprints **and fees**
5 obtained under (a)(3) of this section. The Department of Public Safety shall submit
6 the fingerprints to the Federal Bureau of Investigation for a national criminal history
7 record check. When the results are received, the department shall advise the facility of

8 (1) the date on which the fingerprint background check was completed;

9 and

10 (2) whether the check shows that the individual has committed an
11 offense described in (c) of this section.

12 * **Sec. 14.** AS 18.65.410(a) is amended to read:

13 (a) Application for a license as a security guard must be made on forms
14 provided by the commissioner. The application must require the furnishing of
15 information reasonably required by the commissioner to carry out the provisions of
16 AS 18.65.400 - 18.65.490, including classifiable fingerprints **and the fees required**
17 **under AS 12.62.160 for criminal justice information under AS 12.62 and a**
18 **national criminal history record check under AS 12.62.400 to determine if the**
19 **applicant has** [TO ENABLE THE SEARCH OF CRIMINAL INDICES FOR
20 EVIDENCE OF] a prior criminal record. The application must be accompanied by a
21 nonrefundable application fee of \$50 for a security guard and \$200 for a security
22 guard agency.

23 * **Sec. 15.** AS 18.65.700(a) is amended to read:

24 (a) The department shall issue a permit to carry a concealed handgun to a
25 person who

26 (1) applies in person at an office of the Alaska State Troopers;

27 (2) qualifies under AS 18.65.705;

28 (3) submits a completed application on a form provided by the
29 department, that provides the information required under AS 18.65.705 and 18.65.710;
30 with each application form provided by the department, the department shall provide a
31 copy of the state laws and regulations relating to concealed handguns, which must

1 include a concise summary of where, when, and by whom a handgun can be carried
2 under state and federal law;

3 (4) submits two complete sets of fingerprints on Federal Bureau of
4 Investigation approved fingerprint cards that are of sufficient quality so that the
5 fingerprints may be processed; the fingerprints must be taken by a person, group, or
6 agency approved by the department; the department shall maintain a list of persons,
7 groups, or agencies approved to take fingerprints and shall provide the list to the
8 public upon request; **the fingerprints shall be used to obtain a report of criminal**
9 **justice information under AS 12.62 and a national criminal history record check**
10 **under AS 12.62.400;**

11 (5) submits evidence of successful completion of a handgun course as
12 provided in AS 18.65.715;

13 (6) provides one frontal view color photograph of the person taken
14 within the preceding 30 days that includes the head and shoulders of the person and is
15 of a size specified by the department;

16 (7) shows a valid Alaska driver's license or identification card at the
17 time of application;

18 (8) does not suffer a physical infirmity that prevents the safe handling
19 of a handgun; and

20 (9) pays the application fee required by AS 18.65.720.

21 * **Sec. 16.** AS 21.27.040(e) is amended to read:

22 (e) As part of the application required by (a) of this section, an applicant shall
23 furnish to the director a full set of fingerprints **and the fees required by the**
24 **Department of Public Safety under AS 12.62.160 for criminal justice information**
25 **and a national criminal history record check** so that the director may obtain
26 criminal justice information as provided under AS 12.62 about the applicant. The
27 director shall submit the completed fingerprint card **and fees** to the Department of
28 Public Safety **for a report of criminal justice information under AS 12.62 and a**
29 **national criminal history record check under AS 12.62.400** [. THE
30 DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO SUBMIT THE
31 FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR A

1 NATIONAL CRIMINAL HISTORY RECORD CHECK].

2 * **Sec. 17.** AS 22.20.130(a) is amended to read:

3 (a) The commissioner shall be assisted in the execution of the authority and
 4 duty vested by AS 22.20.100 - 22.20.140 by members of the division of state troopers
 5 or Alaska state constabulary who the commissioner designates. The commissioner is
 6 responsible on official bond for the acts of all persons designated under this
 7 subsection. The persons designated under this subsection have the same authority and
 8 duty granted to the commissioner and are subject to orders of the courts of the state in
 9 the same manner as the commissioner. They are responsible to the commissioner and
 10 to the courts, and shall be executive officers of the courts. **In order to be designated**
 11 **under this section, the commissioner may require the person to submit the**
 12 **person's fingerprints and the fees required under AS 12.62.160 for criminal**
 13 **justice information and a national criminal history record check. The**
 14 **commissioner may obtain a report of criminal justice information under**
 15 **AS 12.62 and a national criminal history record check under AS 12.62.400.**

16 * **Sec. 18.** AS 28.15.046(b) is amended to read:

17 (b) The department may not issue a license under this section unless the
 18 applicant

19 (1) is at least 21 years of age;

20 (2) has had a license to operate a motor vehicle at least three years
 21 before the date of application;

22 (3) has successfully completed all required driving, written, and
 23 physical examinations;

24 (4) has submitted **the applicant's fingerprints, the fees required by**
 25 **the Department of Public Safety under AS 12.62.160 for criminal justice**
 26 **information and a national criminal history record check, and other** information
 27 sufficient to complete a background check consisting of a fingerprint check of national
 28 criminal records and state criminal records of the state or states in which the applicant
 29 has resided for the past two years; **the department shall submit the fingerprints and**
 30 **fees to the Department of Public Safety for a report of criminal justice**
 31 **information under AS 12.62 and a national criminal history record check under**

1 **AS 12.62.400;**

2 (5) has completed a state approved school bus driver training course
3 established under AS 14.07.020(a)(14) or has for the previous two years been licensed
4 by the state to operate a school bus.

5 * **Sec. 19.** AS 28.17.031 is amended by adding a new subsection to read:

6 (c) The department shall require an applicant for a license under this chapter
7 to submit the applicant's fingerprints and the fees required by the Department of
8 Public Safety under AS 12.62.160 for criminal justice information and a national
9 criminal history record check. The department shall submit the fingerprints and fees
10 to the Department of Public Safety for a report of criminal justice information under
11 AS 12.62 and a national criminal history record check under AS 12.62.400.

12 * **Sec. 20.** AS 45.55.040 is amended by adding a new section to read:

13 (k) The administrator shall require an applicant for registration under
14 AS 45.55.030 - 45.55.060 to submit the applicant's fingerprints and the fees required
15 by the Department of Public Safety under AS 12.62.160 for criminal justice
16 information and a national criminal history record check. The administrator shall
17 submit the fingerprints and fees to the Department of Public Safety for a report of
18 criminal justice information under AS 12.62 and a national criminal history record
19 check under AS 12.62.400.

20 * **Sec. 21.** AS 47.05.017(a) is amended to read:

21 (a) State money may not be used for a home care provider unless records
22 under **AS 12.62.160 and 12.62.400** [AS 12.62.035(a)] are requested for the provider
23 within 10 business days after the provider is hired to provide the care and are reviewed
24 within five business days after they are received. The department shall require the
25 grantee or contractor to do the records request [AND REVIEW] required under this
26 subsection for a home care provider employed by a person who has a grant or contract
27 from the department to provide home care services.

28 * **Sec. 22.** AS 47.33.100(a) is amended to read:

29 (a) An assisted living home may not employ an individual in a paid position
30 that the applicable licensing agency has determined is covered by this section,
31 according to its regulations, unless the individual, before beginning employment,

1 (1) provides to the home a sworn statement as to whether the
2 individual has been convicted of an offense described in (c) of this section; [AND]

3 (2) provides to the home the results of a name-check criminal
4 background investigation that was completed by the Department of Public Safety no
5 more than 30 days before the individual is hired; and

6 (3) submits to the home two full sets of the individual's fingerprints
7 **and the fees required by the Department of Public Safety under AS 12.62.160 for**
8 **criminal justice information and a national criminal history record check.**

9 * **Sec. 23.** AS 47.33.100(b) is amended to read:

10 (b) Within 30 days after employing an individual in a paid position, an
11 assisted living home shall submit to the Department of Public Safety the fingerprints
12 **and fees** obtained under (a)(3) of this section **for a report of criminal justice**
13 **information under AS 12.62 and a national criminal history record check under**
14 **AS 12.62.400** [. THE DEPARTMENT OF PUBLIC SAFETY SHALL SUBMIT
15 THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR
16 A NATIONAL CRIMINAL HISTORY RECORD CHECK]. When the results are
17 received, the department shall advise the home of

18 (1) the date on which the fingerprint background check was completed;
19 and

20 (2) whether the check shows that the individual has committed an
21 offense described in (c) of this section.

22 * **Sec. 24.** AS 47.33.550 is amended by adding a new subsection to read:

23 (j) In evaluating whether administrative sanctions may be imposed under this
24 section, a licensing agency may require a person to provide the person's fingerprints
25 and the fees required by the Department of Public Safety under AS 12.62.160 for
26 criminal justice information and a national criminal history record check. The
27 licensing agency shall submit the fingerprints and fees to the Department of Public
28 Safety for a report of criminal justice information under AS 12.62 and a national
29 criminal history record check under AS 12.62.400.

30 * **Sec. 25.** AS 47.35.017(b) is amended to read:

31 (b) An application submitted under this section must contain at least the

1 following information:

2 (1) the name and address of the applicant and, if the applicant is an
3 agency, corporation, partnership, association, or any other form of organization, the
4 name, address, and title of each individual who has an ownership or management
5 interest in the facility; if the applicant is an individual, the application must include the
6 name, age, and driver's license number, if any, of each member of the individual's
7 household;

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

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

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

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

23 (6) two sets of fingerprints, **the fees required by the Department of**
24 **Public Safety under AS 12.62.160 for criminal justice information and a national**
25 **criminal history record check**, and the social security number of each person
26 required to provide a release under (5) of this subsection; [IN ORDER FOR] the
27 department **shall** [TO] submit the fingerprints **and fees** to the Department of Public
28 Safety **to obtain a report of** [FOR THE PURPOSE OF CONDUCTING STATE
29 AND NATIONAL CRIMINAL BACKGROUND CHECKS FROM] criminal justice
30 information [RECEIVED] under AS 12.62 and **a national criminal history record**
31 **check under AS 12.62.400** [REGULATIONS ADOPTED UNDER AS 12.62]; the

1 department may not approve an application under this section until the **report and the**
 2 results of the **national** criminal **history record** [BACKGROUND] check have been
 3 submitted to the department;

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

6 (8) the type of facility or agency for which the license is sought;

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

10 (10) a plan of operation, as required by the department by regulation;

11 (11) a staffing plan that describes the number of people who will work
 12 at the facility or agency, staff qualifications, a description of each person's
 13 responsibilities, and, for a facility other than a maternity home, a supervision schedule
 14 for the children in care that meets the requirements established by the department by
 15 regulation;

16 (12) evidence that the applicant is capable of meeting the minimum
 17 standards of care established by the department under AS 47.14.120;

18 (13) evidence that the applicant has completed orientation or training
 19 required by the department, by regulation, for holders of the type of license for which
 20 the application was submitted; and

21 (14) other information required by the department, by regulation, in
 22 order to monitor compliance with this chapter and regulations adopted under this
 23 chapter.

24 * **Sec. 26.** Except for secs. 3 and 14 of this Act, this Act takes effect immediately under
 25 AS 01.10.070(c).

26 * **Sec. 27.** Sections 3 and 14 of this Act take effect July 2, 2003.