

(LIMITED RUN FOR ALL ADDITIONAL SPONSORSHIPS)

**CS FOR SENATE BILL NO. 179(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/8/04

Referred: Rules

Sponsor(s): SENATOR THERRIAULT

REPRESENTATIVES Gatto, Lynn

**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 due to a delay in receiving criminal  
 5 history records; allowing teacher certification for certain persons based on a criminal  
 6 history background check without fingerprints; and 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 a conditional**  
 10 **contractor's permit** under this title shall submit to the board, with the application, the  
 11 applicant's fingerprints and the fees required by the Department of Public Safety  
 12 **under AS 12.62.160** for criminal justice information and a national criminal history  
 13 record check. The board may require an applicant for renewal of a license **or a**

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

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

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

13        \* **Sec. 3.** AS 08.08.137 is amended to read:

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

25        \* **Sec. 4.** AS 08.24.120 is amended to read:

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

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

- 1 (2) a 2" x 3" photograph showing a front view of head and shoulders;  
 2 (3) if it is an original application, the application fee;  
 3 (4) the biennial license fee.

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

10 \* **Sec. 5.** AS 08.68.100(a) is amended by adding a new paragraph to read:

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

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

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

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

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

24 **Sec. 12.62.400. National criminal history record checks for employment,**  
 25 **licensing, and other noncriminal justice purposes.** To obtain a national criminal  
 26 history record check for determining a person's qualifications for a license, permit,  
 27 registration, employment, or position, a person shall submit the person's fingerprints to  
 28 the department with the fee established by AS 12.62.160. The department may submit  
 29 the fingerprints to the Federal Bureau of Investigation to obtain a national criminal  
 30 history record check of the person for the purpose of evaluating a person's  
 31 qualifications for

1 (1) a license or conditional contractor's permit to manufacture, sell,  
2 offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage  
3 under AS 04.11;

4 (2) admission to the Alaska Bar Association under AS 08.08;

5 (3) licensure as a collection agency operator under AS 08.24;

6 (4) licensure to practice nursing or certification as a nurse aide under  
7 AS 08.68;

8 (5) a position involving supervisory or disciplinary power over a minor  
9 or dependent adult for which criminal justice information may be released under  
10 AS 12.62.160(b)(9);

11 (6) a teacher certificate under AS 14.20;

12 (7) licensure as a security guard under AS 18.65.400 - 18.65.490;

13 (8) a concealed handgun permit under AS 18.65.700 - 18.65.790;

14 (9) licensure as an insurance producer, managing general agent,  
15 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines  
16 broker, or independent adjuster under AS 21.27;

17 (10) serving and executing process issued by a court by a person  
18 designated under AS 22.20.130;

19 (11) a school bus driver license under AS 28.15.046;

20 (12) licensure as an operator or an instructor for a commercial driver  
21 training school under AS 28.17;

22 (13) registration as a broker-dealer, agent, investment adviser  
23 representative, or state investment adviser under AS 45.55.030 - 45.55.060;

24 \* **Sec. 8.** AS 14.20.010 is amended to read:

25 **Sec. 14.20.010. Teacher certificate required.** A person may not be  
26 employed as a teacher in the public schools of the state unless that person possesses a  
27 valid teacher certificate except that a person who has made application to the  
28 department for a teacher certificate, including a preliminary teacher certificate under  
29 AS 14.20.015, or renewal of a teacher certificate that has not been acted upon by the  
30 department may be employed as a teacher in the public schools of the state until the  
31 department has taken action on the application, but in no case may employment

1 without a certificate last longer than three months. **A person who has made**  
 2 **application for a certificate under this section may teach for an additional 60**  
 3 **days beyond three months without a certificate if the department grants a written**  
 4 **extension. An extension may be granted under this section for not more than 60**  
 5 **days to the person solely due to delay in the department's receipt of criminal**  
 6 **justice information under AS 12.62 or a national criminal history record check**  
 7 **under AS 12.62.400.**

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

9 (c) The board may establish by regulation additional requirements for the  
 10 issuance of certificates. **The board shall require teachers to submit fingerprints**  
 11 **and the fees required by the Department of Public Safety under AS 12.62.160 for**  
 12 **criminal justice information and a national criminal history record check. The**  
 13 **board shall submit the fingerprints and fees to the Department of Public Safety**  
 14 **for a report of criminal justice information under AS 12.62 and a national**  
 15 **criminal history record check under AS 12.62.400.** The department shall establish  
 16 by regulation the fees to be charged for each certificate [, INCLUDING FEES FOR  
 17 CRIMINAL HISTORY BACKGROUND CHECKS] and for other charges assessed  
 18 against teachers as part of certification. In establishing the fees to be charged, the  
 19 department shall establish the fee levels so that the total amount of the fees collected  
 20 relating to the certification of teachers approximately equals, when added to the other  
 21 fees collected from teachers, the actual regulatory costs for certifying and disciplining  
 22 teachers in the state. The department shall annually review each fee level to determine  
 23 whether the regulatory costs are approximately equal to fee collections. If the review  
 24 indicates that fee collections and regulatory costs are not approximately equal, the  
 25 department shall calculate fee adjustments to the fees for certification of teachers and  
 26 adopt regulations under this subsection to implement the adjustments. In January of  
 27 each year, the department shall report on all fee levels and revisions for the previous  
 28 year under this subsection to the office of management and budget. The department  
 29 shall consider the board's recommendations concerning the fee levels and regulatory  
 30 costs before revising fee schedules to comply with this subsection. In this subsection,  
 31 "regulatory costs" means costs of the department that are attributable to regulation of

1 the teaching profession, including the portion of the expenses of the board that are  
 2 attributable to the regulation of the teaching profession and the expenses of the  
 3 Professional Teaching Practices Commission.

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

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

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

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

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

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

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

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

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

25 (2) have submitted fingerprints **and the fees required by the**  
 26 **Department of Public Safety under AS 12.62.160 for criminal justice information**  
 27 **and a national criminal history record check** to the department; **the department**  
 28 **must have submitted the fingerprints and fees to the Department of Public Safety**  
 29 **for a report of criminal justice information under AS 12.62 and a national**  
 30 **criminal history record check under AS 12.62.400 and the person must** [TO BE  
 31 USED FOR A CRIMINAL HISTORY BACKGROUND CHECK AND] have been

1 found by the department to be suitable for employment as a teacher under  
2 AS 14.20.020(f); **and**

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

8 (4) PAY THE FEE REQUIRED BY THE DEPARTMENT UNDER  
9 AS 14.20.020(c) TO DEFRAY THE COST OF THE CRIMINAL HISTORY  
10 BACKGROUND CHECK; THE AMOUNT MAY NOT EXCEED THE FEE  
11 REQUIRED FOR APPLICATION FOR AN INITIAL REGULAR TEACHER  
12 CERTIFICATE].

13 \* **Sec. 12.** AS 18.20.302(b) is amended to read:

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

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

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

23 \* **Sec. 13.** AS 18.65.410(a) is amended to read:

24 (a) Application for a license as a security guard must be made on forms  
25 provided by the commissioner. The application must require the furnishing of  
26 information reasonably required by the commissioner to carry out the provisions of  
27 AS 18.65.400 - 18.65.490, including classifiable fingerprints **and the fees required**  
28 **under AS 12.62.160 for criminal justice information under AS 12.62 and a**  
29 **national criminal history record check under AS 12.62.400 to determine if the**  
30 **applicant has a** [TO ENABLE THE SEARCH OF CRIMINAL INDICES FOR  
31 EVIDENCE OF A PRIOR] criminal record. The application must be accompanied by

1 a nonrefundable application fee of \$50 for a security guard and \$200 for a security  
2 guard agency.

3 \* **Sec. 14.** AS 18.65.700(a) is amended to read:

4 (a) The department shall issue a permit to carry a concealed handgun to a  
5 person who

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

7 (2) qualifies under AS 18.65.705;

8 (3) submits a completed application on a form provided by the  
9 department, that provides the information required under AS 18.65.705 and 18.65.710;  
10 with each application form provided by the department, the department shall provide a  
11 copy of the state laws and regulations relating to concealed handguns, which must  
12 include a concise summary of where, when, and by whom a handgun can be carried  
13 under state and federal law;

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

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

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

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

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

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

1 \* **Sec. 15.** AS 21.27.040(e) is amended to read:

2 (e) As part of the application required by (a) of this section, an applicant shall  
 3 furnish to the director a full set of fingerprints **and the fees required by the**  
 4 **Department of Public Safety under AS 12.62.160 for criminal justice information**  
 5 **and a national criminal history record check** so that the director may obtain  
 6 criminal justice information as provided under AS 12.62 about the applicant. The  
 7 director shall submit the completed fingerprint card **and fees** to the Department of  
 8 Public Safety **for a report of criminal justice information under AS 12.62 and a**  
 9 **national criminal history record check under AS 12.62.400** [. THE  
 10 DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO SUBMIT THE  
 11 FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR A  
 12 NATIONAL CRIMINAL HISTORY RECORD CHECK].

13 \* **Sec. 16.** AS 22.20.130(a) is amended to read:

14 (a) The commissioner shall be assisted in the execution of the authority and  
 15 duty vested by AS 22.20.100 - 22.20.140 by members of the division of state troopers  
 16 or Alaska state constabulary who the commissioner designates. The commissioner is  
 17 responsible on official bond for the acts of all persons designated under this  
 18 subsection. The persons designated under this subsection have the same authority and  
 19 duty granted to the commissioner and are subject to orders of the courts of the state in  
 20 the same manner as the commissioner. They are responsible to the commissioner and  
 21 to the courts, and shall be executive officers of the courts. **In order to be designated**  
 22 **under this section, the commissioner may require the person to submit the**  
 23 **person's fingerprints and the fees required under AS 12.62.160 for criminal**  
 24 **justice information and a national criminal history record check. The**  
 25 **commissioner may obtain a report of criminal justice information under**  
 26 **AS 12.62 and a national criminal history record check under AS 12.62.400.**

27 \* **Sec. 17.** AS 28.15.046(b) is amended to read:

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

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

31 (2) has had a license to operate a motor vehicle at least three years

1 before the date of application;

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

4 (4) has submitted **the applicant's fingerprints, the fees required by**  
5 **the Department of Public Safety under AS 12.62.160 for criminal justice**  
6 **information and a national criminal history record check, and other** information  
7 sufficient to complete a background check consisting of a fingerprint check of national  
8 criminal records and state criminal records of the state or states in which the applicant  
9 has resided for the past two years; **the department shall submit the fingerprints and**  
10 **fees to the Department of Public Safety for a report of criminal justice**  
11 **information under AS 12.62 and a national criminal history record check under**  
12 **AS 12.62.400;**

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

16 \* **Sec. 18.** AS 28.17.031 is amended by adding a new subsection to read:

17 (c) The department shall require an applicant for a license under this chapter  
18 to submit the applicant's fingerprints and the fees required by the Department of  
19 Public Safety under AS 12.62.160 for criminal justice information and a national  
20 criminal history record check. The department shall submit the fingerprints and fees  
21 to the Department of Public Safety for a report of criminal justice information under  
22 AS 12.62 and a national criminal history record check under AS 12.62.400.

23 \* **Sec. 19.** AS 45.55.040 is amended by adding a new section to read:

24 (k) The administrator shall require an applicant for registration under  
25 AS 45.55.030 - 45.55.060 to submit the applicant's fingerprints and the fees required  
26 by the Department of Public Safety under AS 12.62.160 for criminal justice  
27 information and a national criminal history record check. The administrator shall  
28 submit the fingerprints and fees to the Department of Public Safety for a report of  
29 criminal justice information under AS 12.62 and a national criminal history record  
30 check under AS 12.62.400.

31 \* **Sec. 20.** This Act takes effect immediately under AS 01.10.070(c).