

**HOUSE CS FOR CS FOR SENATE BILL NO. 179(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 5/8/04**

**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 teacher**  
2 **certification for certain persons based on a criminal history background check without**  
3 **fingerprints; and providing for an effective date."**

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

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

6 (a) An applicant for the issuance or transfer of a license **or a conditional**  
7 **contractor's permit** under this title shall submit to the board, with the application, the  
8 applicant's fingerprints and the fees required by the Department of Public Safety  
9 **under AS 12.62.160** for criminal justice information and a national criminal history  
10 record check. The board may require an applicant for renewal of a license **or a**  
11 **conditional contractor's permit** under this title to submit fingerprints and pay fees as  
12 required by this subsection. The board shall submit the fingerprints to the Department  
13 of Public Safety to obtain a report of criminal justice information under AS 12.62 and  
14 a national criminal history record check **under AS 12.62.400**. The Department of

1 Public Safety may submit the fingerprints to the Federal Bureau of Investigation for a  
 2 national criminal history record check. The board shall use the information obtained  
 3 under this section in its determination of an applicant's qualification for issuance,  
 4 transfer, or renewal of a license or a conditional contractor's permit.

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

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

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

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

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

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

25 (1) a complete set of 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;

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

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

30 (4) the biennial license fee.

31 (b) The department may make a complete investigation of applicants,

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

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

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

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

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

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

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

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

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

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

- 1 (3) licensure as a collection agency operator under AS 08.24;
- 2 (4) licensure to practice nursing or certification as a nurse aide under  
3 AS 08.68;
- 4 (5) a position involving supervisory or disciplinary power over a minor  
5 or dependent adult for which criminal justice information may be released under  
6 AS 12.62.160(b)(9);
- 7 (6) a teacher certificate under AS 14.20;
- 8 (7) licensure as a security guard under AS 18.65.400 - 18.65.490;
- 9 (8) a concealed handgun permit under AS 18.65.700 - 18.65.790;
- 10 (9) licensure as an insurance producer, managing general agent,  
11 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines  
12 broker, or independent adjuster under AS 21.27;
- 13 (10) serving and executing process issued by a court by a person  
14 designated under AS 22.20.130;
- 15 (11) a school bus driver license under AS 28.15.046;
- 16 (12) licensure as an operator or an instructor for a commercial driver  
17 training school under AS 28.17;
- 18 (13) registration as a broker-dealer, agent, investment adviser  
19 representative, or state investment adviser under AS 45.55.030 - 45.55.060;

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

21 (c) The board may establish by regulation additional requirements for the  
22 issuance of certificates. **The board shall require teachers to submit fingerprints**  
23 **and the fees required by the Department of Public Safety under AS 12.62.160 for**  
24 **criminal justice information and a national criminal history record check. The**  
25 **board shall submit the fingerprints and fees to the Department of Public Safety**  
26 **for a report of criminal justice information under AS 12.62 and a national**  
27 **criminal history record check under AS 12.62.400.** The department shall establish  
28 by regulation the fees to be charged for each certificate [, INCLUDING FEES FOR  
29 CRIMINAL HISTORY BACKGROUND CHECKS] and for other charges assessed  
30 against teachers as part of certification. In establishing the fees to be charged, the  
31 department shall establish the fee levels so that the total amount of the fees collected

1 relating to the certification of teachers approximately equals, when added to the other  
 2 fees collected from teachers, the actual regulatory costs for certifying and disciplining  
 3 teachers in the state. The department shall annually review each fee level to determine  
 4 whether the regulatory costs are approximately equal to fee collections. If the review  
 5 indicates that fee collections and regulatory costs are not approximately equal, the  
 6 department shall calculate fee adjustments to the fees for certification of teachers and  
 7 adopt regulations under this subsection to implement the adjustments. In January of  
 8 each year, the department shall report on all fee levels and revisions for the previous  
 9 year under this subsection to the office of management and budget. The department  
 10 shall consider the board's recommendations concerning the fee levels and regulatory  
 11 costs before revising fee schedules to comply with this subsection. In this subsection,  
 12 "regulatory costs" means costs of the department that are attributable to regulation of  
 13 the teaching profession, including the portion of the expenses of the board that are  
 14 attributable to the regulation of the teaching profession and the expenses of the  
 15 Professional Teaching Practices Commission.

16 \* **Sec. 9.** AS 14.20.020 is amended by adding a new subsection to read:

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

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

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

27 \* **Sec. 10.** AS 14.20.022(b) is amended to read:

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

30 (1) hold at least a baccalaureate degree from an institution of higher  
 31 education accredited by a recognized regional or national accrediting association or

1 approved by the commissioner and

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

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

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

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

20 (4) PAY THE FEE REQUIRED BY THE DEPARTMENT UNDER  
21 AS 14.20.020(c) TO DEFRAY THE COST OF THE CRIMINAL HISTORY  
22 BACKGROUND CHECK; THE AMOUNT MAY NOT EXCEED THE FEE  
23 REQUIRED FOR APPLICATION FOR AN INITIAL REGULAR TEACHER  
24 CERTIFICATE].

25 \* **Sec. 11.** AS 18.20.302(b) is amended to read:

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

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

1 and

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

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

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

15 \* **Sec. 13.** AS 18.65.700(a) is amended to read:

16 (a) The department shall issue a permit to carry a concealed handgun to a  
17 person who

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

19 (2) qualifies under AS 18.65.705;

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

26 (4) submits two complete sets of fingerprints on Federal Bureau of  
27 Investigation approved fingerprint cards that are of sufficient quality so that the  
28 fingerprints may be processed; the fingerprints must be taken by a person, group, or  
29 agency approved by the department; the department shall maintain a list of persons,  
30 groups, or agencies approved to take fingerprints and shall provide the list to the  
31 public upon request; **the fingerprints shall be used to obtain a report of criminal**

1 **justice information under AS 12.62 and a national criminal history record check**  
 2 **under AS 12.62.400;**

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

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

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

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

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

13 \* **Sec. 14.** AS 21.27.040(e) is amended to read:

14 (e) As part of the application required by (a) of this section, an applicant shall  
 15 furnish to the director a full set of fingerprints **and 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** so that the director may obtain  
 18 criminal justice information as provided under AS 12.62 about the applicant. The  
 19 director shall submit the completed fingerprint card **and fees** to the Department of  
 20 Public Safety **for a report of criminal justice information under AS 12.62 and a**  
 21 **national criminal history record check under AS 12.62.400** [. THE  
 22 DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO SUBMIT THE  
 23 FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR A  
 24 NATIONAL CRIMINAL HISTORY RECORD CHECK].

25 \* **Sec. 15.** AS 22.20.130(a) is amended to read:

26 (a) The commissioner shall be assisted in the execution of the authority and  
 27 duty vested by AS 22.20.100 - 22.20.140 by members of the division of state troopers  
 28 or Alaska state constabulary who the commissioner designates. The commissioner is  
 29 responsible on official bond for the acts of all persons designated under this  
 30 subsection. The persons designated under this subsection have the same authority and  
 31 duty granted to the commissioner and are subject to orders of the courts of the state in

1 the same manner as the commissioner. They are responsible to the commissioner and  
 2 to the courts, and shall be executive officers of the courts. **In order to be designated**  
 3 **under this section, the commissioner may require the person to submit the**  
 4 **person's fingerprints and the fees required under AS 12.62.160 for criminal**  
 5 **justice information and a national criminal history record check. The**  
 6 **commissioner may obtain a report of criminal justice information under**  
 7 **AS 12.62 and a national criminal history record check under AS 12.62.400.**

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

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

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

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

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

16 (4) has submitted **the applicant's fingerprints, the fees required by**  
 17 **the Department of Public Safety under AS 12.62.160 for criminal justice**  
 18 **information and a national criminal history record check, and other** information  
 19 sufficient to complete a background check consisting of a fingerprint check of national  
 20 criminal records and state criminal records of the state or states in which the applicant  
 21 has resided for the past two years; **the department shall submit the fingerprints and**  
 22 **fees to the Department of Public Safety for a report of criminal justice**  
 23 **information under AS 12.62 and a national criminal history record check under**  
 24 **AS 12.62.400;**

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

28 \* **Sec. 17.** AS 28.17.031 is amended by adding a new subsection to read:

29 (c) The department shall require an applicant for a license under this chapter  
 30 to submit the applicant's fingerprints and the fees required by the Department of  
 31 Public Safety under AS 12.62.160 for criminal justice information and a national

1 criminal history record check. The department shall submit the fingerprints and fees  
2 to the Department of Public Safety for a report of criminal justice information under  
3 AS 12.62 and a national criminal history record check under AS 12.62.400.

4 \* **Sec. 18.** AS 45.55.040 is amended by adding a new section to read:

5 (k) The administrator shall require an applicant for registration under  
6 AS 45.55.030 - 45.55.060 to submit the applicant's fingerprints and the fees required  
7 by the Department of Public Safety under AS 12.62.160 for criminal justice  
8 information and a national criminal history record check. The administrator shall  
9 submit the fingerprints and fees to the Department of Public Safety for a report of  
10 criminal justice information under AS 12.62 and a national criminal history record  
11 check under AS 12.62.400.

12 \* **Sec. 19.** This Act takes effect immediately under AS 01.10.070(c).