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CS FOR HOUSE BILL NO. 343(JUD) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 4/6/12

Offered: 3/30/12

Sponsor(s): REPRESENTATIVES MUÑOZ, Peggy Wilson

SENATORS Davis, Dyson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to disclosure of records of the Department of Health and Social**
2 **Services pertaining to children in certain circumstances; and providing for an effective**
3 **date."**

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 shall disclose appropriate
7 confidential information regarding a case to

8 (1) a guardian ad litem appointed by the court;

9 (2) a person or an agency requested by the department or the child's
10 legal custodian to provide consultation or services for a child who is subject to the
11 jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of
12 the consultation or services;

13 (3) an out-of-home care provider as necessary to enable the out-of-
14 home care provider to provide appropriate care to the child, to protect the safety of the

1 child, and to protect the safety and property of family members and visitors of the out-
2 of-home care provider;

3 (4) a school official as necessary to enable the school to provide
4 appropriate counseling and support services to a child who is the subject of the case, to
5 protect the safety of the child, and to protect the safety of school students and staff;

6 (5) a governmental agency as necessary to obtain that agency's
7 assistance for the department in its investigation or to obtain physical custody of a
8 child;

9 (6) a law enforcement agency of this state or another jurisdiction as
10 necessary for the protection of any child or for actions by that agency to protect the
11 public safety;

12 (7) a member of a multidisciplinary child protection team created
13 under AS 47.14.300 as necessary for the performance of the member's duties;

14 (8) the state medical examiner under AS 12.65 as necessary for the
15 performance of the duties of the state medical examiner;

16 (9) a person who has made a report of harm as required by
17 AS 47.17.020 to inform the person that the investigation was completed and of action
18 taken to protect the child who was the subject of the report;

19 (10) the child support services agency established in AS 25.27.010 as
20 necessary to establish and collect child support for a child who is a child in need of aid
21 under this chapter;

22 (11) a parent, guardian, or caregiver of a child or an entity responsible
23 for ensuring the safety of children as necessary to protect the safety of a child;

24 (12) a review panel established by the department for the purpose of
25 reviewing the actions taken by the department in a specific case; [AND]

26 (13) the University of Alaska under the Alaska higher education
27 savings program for children established under AS 47.14.400, but only to the extent
28 that the information is necessary to support the program and only if the information
29 released is maintained as a confidential record by the University of Alaska;

30 **(14) a child placement agency licensed under AS 47.32 as**
31 **necessary to provide services for a child who is the subject of the case; and**

1 **(15) a state or municipal agency of this state or another**
 2 **jurisdiction that is responsible for delinquent minors, as may be necessary for the**
 3 **administration of services, protection, rehabilitation, or supervision of a child or**
 4 **for actions by the agency to protect the public safety; however, a court may**
 5 **review an objection made to a disclosure under this paragraph; the person**
 6 **objecting to the disclosure bears the burden of establishing by a preponderance**
 7 **of the evidence that disclosure is not in the child's best interest.**

8 * **Sec. 2.** AS 47.12.310(b) is amended to read:

9 (b) A state or municipal agency or employee shall disclose

10 (1) information regarding a case to a federal, state, or municipal law
 11 enforcement agency for a specific investigation being conducted by that agency;

12 (2) appropriate information regarding a case to

13 (A) a guardian ad litem appointed by the court;

14 (B) a person or an agency requested by the department or the
 15 minor's legal custodian to provide consultation or services for a minor who is
 16 subject to the jurisdiction of the court under this chapter as necessary to enable
 17 the provision of the consultation or services;

18 (C) school officials as may be necessary to protect the safety of
 19 the minor who is the subject of the case and the safety of school students and
 20 staff or to enable the school to provide appropriate counseling and supportive
 21 services to meet the needs of a minor about whom information is disclosed;

22 (D) a governmental agency as may be necessary to obtain that
 23 agency's assistance for the department in its investigation or to obtain physical
 24 custody of a minor;

25 (E) a law enforcement agency of this state or another
 26 jurisdiction as may be necessary for the protection, rehabilitation, or
 27 supervision of any minor or for actions by that agency to protect the public
 28 safety;

29 (F) a victim or to the victim's insurance company as may be
 30 necessary to inform the victim or the insurance company about the arrest of the
 31 minor, including the minor's name and the names of the minor's parents, copies

1 of reports, or the disposition or resolution of a case involving a minor;

2 (G) the state medical examiner under AS 12.65 as may be
3 necessary to perform the duties of the state medical examiner;

4 (H) foster parents or relatives with whom the child is placed by
5 the department as may be necessary to enable the foster parents or relatives to
6 provide appropriate care for the child who is the subject of the case, to protect
7 the safety of the child who is the subject of the case, and to protect the safety
8 and property of family members and visitors of the foster parents or relatives;

9 (I) the Department of Law or its agent for use and subsequent
10 release if necessary for collection of an order of restitution on behalf of the
11 recipient;

12 (J) the Violent Crimes Compensation Board established in
13 AS 18.67.020 for use in awarding compensation under AS 18.67.080; [AND]

14 (K) a state, municipal, or federal agency of this state or another
15 jurisdiction that has the authority to license adult or children's facilities and
16 services;

17 **(L) a child placement agency licensed under AS 47.32 as**
18 **necessary to provide services for a minor who is subject to the jurisdiction**
19 **of the court under this chapter; and**

20 **(M) a state or municipal agency of this state or another**
21 **jurisdiction that is responsible for child protection services, as may be**
22 **necessary for the administration of services, protection, rehabilitation, or**
23 **supervision of a minor or for actions by the agency to protect the public**
24 **safety; and**

25 (3) to the University of Alaska under the Alaska higher education
26 savings program for children established under AS 47.14.400 information that is
27 necessary to support the program, but only if the information released is maintained as
28 a confidential record by the University of Alaska.

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

30 (f) The department may release to a person with a legitimate interest
31 information relating to **a minor** [MINORS NOT] subject to the jurisdiction of the

1 **department** [COURT] under this chapter. The department shall adopt **regulations**
 2 **under AS 44.62 to implement this subsection, including** regulations governing the
 3 release of information and **standards for** identifying a [SUFFICIENT] legitimate
 4 interest **in the information.**

5 * **Sec. 4.** AS 47.12.315 is repealed and reenacted to read:

6 **Sec. 47.12.315. Public disclosure of information in department records**
 7 **relating to certain minors.** (a) Notwithstanding AS 47.12.310 and except as
 8 otherwise provided in this section, the department shall disclose information to the
 9 public, on request, concerning a minor subject to this chapter who was at least 13
 10 years of age at the time of commission of

11 (1) a felony offense against a person under AS 11.41;

12 (2) arson in the first or second degree;

13 (3) burglary in the first degree;

14 (4) distribution of child pornography;

15 (5) promoting prostitution in the first degree;

16 (6) misconduct involving a controlled substance in the first, second, or
 17 third degrees involving distribution or possession with intent to deliver; or

18 (7) misconduct involving weapons in the first through fourth degrees.

19 (b) The department may disclose the information authorized in (a) of this
 20 section only if a court has adjudicated the minor as delinquent.

21 (c) When required by this section to disclose information, the department may
 22 disclose only the name of the minor, the name of each legal parent or guardian, the
 23 specific offense alleged to have been committed in the petition, and the final outcome
 24 of the court proceedings relating to the offense. Before the disclosure, the department
 25 shall delete the information that identifies the victim of the offense.

26 (d) The department may not disclose the name of an out-of-home care
 27 provider with whom the minor was living at the time the minor was alleged to have
 28 committed the offense.

29 (e) If the department or other state or municipal agency maintains the
 30 information to be disclosed by electronic means that can be recovered from a
 31 computer database, the department or agency may disclose the information in that

1 medium.

2 (f) The department may not release information under this section after five
3 years from the date the department or other agency is first required or authorized to
4 make the disclosure under this section.

5 (g) When disclosure is required under this section, the department may
6 petition the court for an order prohibiting the disclosure. The court may grant the
7 petition if, based on information presented in the petition or at an in camera hearing
8 held on the petition, the court finds that

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

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

12 (h) In this section, unless the context otherwise requires, "out-of-home care
13 provider" means a person, other than the child's legal parents, with whom a child who
14 is in the custody of the state under AS 47.10, AS 47.12, or AS 47.14 is currently
15 placed, including a foster parent, a relative other than a parent, and a person who has
16 petitioned for adoption or guardianship of the child.

17 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 TRANSITION: REGULATIONS. The Department of Health and Social Services may
20 adopt regulations necessary to implement the changes made by this Act. The regulations take
21 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of
22 secs. 1 - 4 of this Act.

23 * **Sec. 6.** Section 5 of this Act takes effect immediately under AS 01.10.070(c).

24 * **Sec. 7.** Except as provided in sec. 6 of this Act, this Act takes effect July 1, 2012.