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Referred: Judiciary  
and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 183

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act abolishing the Governor's Commission on the  
7 Administration of Justice and transferring responsi-  
8 bilities to the attorney general."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 12.62.010 is amended to read:

11 Sec. 12.62.010. REGULATIONS. (a) After [THE GOVERNOR'S COMMIS-  
12 SION ON THE ADMINISTRATION OF JUSTICE ESTABLISHED UNDER AS 44.19.-  
13 110 -- 44.19.122 IS AUTHORIZED, AFTER] appropriate consultation with  
14 representatives of state and local law enforcement agencies partici-  
15 pating in information systems covered by this chapter, the attorney  
16 general may [TO] adopt regulations and procedures considered necessary  
17 to facilitate and regulate the exchange of criminal justice informa-  
18 tion and to insure the security and privacy of criminal justice infor-  
19 mation systems. The notice and hearing requirements of the Adminis-  
20 trative Procedure Act (AS 44.62), relating to the adoption of regula-  
21 tions, apply to regulations adopted under this chapter.

22 (b) In addition to regulations adopted under (a) of this sec-  
23 tion, the attorney general may [COMMISSION SHALL], after appropriate  
24 consultation with representatives of state and local law enforcement  
25 agencies, adopt regulations and procedures governing the gathering of  
26 intelligence information and the storage, security, and privacy of the  
27 intelligence information collected and maintained by law enforcement  
28 agencies in the state. The notice and hearing requirements of the  
29 Administrative Procedure Act (AS 44.62), relating to the adoption of

1 regulations, apply to regulations adopted under this subsection. In  
2 adopting these regulations, the attorney general [COMMISSION] shall  
3 take into account both the interest of law enforcement agencies in  
4 maintaining the ability to conduct intelligence operations and each  
5 individual's right to privacy.

6 \* Sec. 2. AS 12.62.015 is amended to read:

7 Sec. 12.62.015. COLLECTION AND SECURITY OF INTELLIGENCE INFORMA-  
8 TION. (a) Regulations [OF THE COMMISSION] adopted under AS 12.62.-  
9 010(b) must [SHALL] include requirements and guidelines concerning the  
10 categories of intelligence information which may be gathered by law  
11 enforcement agencies in the state, the purposes for which intelligence  
12 information may be collected, and the methods and procedures which may  
13 be used in collecting intelligence information.

14 (b) The [COMMISSION'S] regulations adopted under AS 12.62.010(b)  
15 must [SHALL] establish standards for the confidentiality and security  
16 of intelligence information and provide for controls, access to and  
17 dissemination of intelligence information, and methods for updating,  
18 correcting and purging intelligence information while maintaining the  
19 security and confidentiality of the information.

20 \* Sec. 3. AS 12.62.017 is amended to read:

21 Sec. 12.62.017. ANNUAL REPORT [TO COMMISSION]. The chief offi-  
22 cer of each state or municipal law enforcement agency shall submit an  
23 annual report to the attorney general [COMMISSION], in the form  
24 required by the attorney general [COMMISSION], certifying compliance  
25 by the agency with the regulations adopted [BY THE COMMISSION] under  
26 AS 12.62.010(b).

27 \* Sec. 4. AS 12.62.020(a) is amended to read:

28 (a) The attorney general [COMMISSION] shall adopt regulations  
29 concerning the specific classes of criminal justice information that

1 [WHICH] may be collected and stored in criminal justice information  
2 systems.

3 \* Sec. 5. AS 12.62.030 is amended to read:

4 Sec. 12.62.030. ACCESS AND USE. (a) Except as provided in (b)  
5 and (c) of this section and in AS 12.62.035, access to specified  
6 classes of criminal justice information in criminal justice informa-  
7 tion systems is available only to individual law enforcement agencies  
8 according to the specific needs of the agency under regulations adopt-  
9 ed by the attorney general [COMMISSION] under AS 12.62.010. Criminal  
10 justice information may be used only for law enforcement purposes or  
11 for those additional lawful purposes necessary to the proper enforce-  
12 ment or administration of other provisions of law as the attorney  
13 general [COMMISSION] may prescribe by regulations adopted under  
14 AS 12.62.010. Criminal justice information may not be disseminated to  
15 an agency unless the attorney general [BEFORE THE COMMISSION] deter-  
16 mines that the agency is eligible [THE AGENCY'S ELIGIBILITY] to re-  
17 ceive that information.

18 (b) Criminal justice information may be made available to quali-  
19 fied persons for research related to law enforcement under regulations  
20 adopted by the attorney general [COMMISSION]. These regulations must  
21 include procedures to assure the security of information and the  
22 privacy of individuals about whom information is released.

23 (c) A person has [SHALL HAVE] the right to inspect criminal  
24 justice information that refers to the person. If a person believes  
25 the information to be inaccurate, incomplete, or misleading, the  
26 person may request the criminal justice agency having custody or  
27 control of the records to purge, modify, or supplement them. If the  
28 agency declines to do so, or if the person believes the agency's  
29 decision to be otherwise unsatisfactory, the person may in writing

1 request review by the attorney general [COMMISSION] within 30 [60]  
2 days after [OF] the decision of the agency. If the attorney general  
3 [THE COMMISSION, ITS REPRESENTATIVE OR AGENT SHALL, IN A CASE IN WHICH  
4 IT] finds a basis for complaint, [CONDUCT] a hearing may be conducted  
5 at which the person may appear with counsel, present evidence, and  
6 examine and cross-examine witnesses. Written findings and conclusions  
7 must [SHALL] be issued. If the record in question is found to be  
8 inaccurate, incomplete, or misleading, the attorney general [COMMIS-  
9 SION] shall order it to be appropriately purged, modified, or supple-  
10 mented by an explanatory notation. An agency or person in the state  
11 with custody, possession, or control of the record shall promptly

12 (1) have every copy of the record altered in accordance  
13 with the attorney general's [COMMISSION'S] order; and

14 (2) disseminate notification [. NOTIFICATION] of a dele-  
15 tion, amendment or [AND] supplementary notation [SHALL BE PROMPTLY  
16 DISSEMINATED BY THE COMMISSION] to persons or agencies to which re-  
17 cords in question have been communicated, as well as to the person  
18 whose records have been altered.

19 (d) An agency holding or receiving criminal justice information  
20 shall maintain, for a period determined by the attorney general [COM-  
21 MISSION] to be appropriate, a listing of the agencies to which it has  
22 released or communicated the information. These listings must [SHALL]  
23 be reviewed from time to time by the attorney general [COMMISSION OR  
24 STAFF MEMBERS OF THE COMMISSION] to determine whether the provisions  
25 of this chapter or any applicable regulations have been violated.

26 (e) Reasonable hours and places of inspection, and any addi-  
27 tional restrictions, including fingerprinting, that are reasonably  
28 necessary both to assure the record's security and to verify the  
29 identities of those who seek to inspect them may be prescribed by

1 published rules. Fingerprints taken under this subsection may not be  
2 transferred to another agency or used for any other purpose.

3 (f) A person who requests the attorney general's review [OR  
4 AGENCY AGGRIEVED BY AN ORDER OR DECISION OF THE COMMISSION] under (c)  
5 of this section may appeal the order or decision to the superior  
6 court. The court shall in each case conduct a de novo hearing and may  
7 order the relief it determines to be necessary. If a person about  
8 whom information is maintained by an agency challenges that informa-  
9 tion in an action under this subsection as being inaccurate, incom-  
10 plete, or misleading, the burden is on the agency to prove that the  
11 information is not inaccurate, incomplete, or misleading.

12 \* Sec. 6. AS 12.62.035(a) is amended to read:

13 (a) Notwithstanding any other provision of law, an interested  
14 person as defined in (e) of this section may request [FROM THE COMMIS-  
15 SION] records of all convictions involving contributing to the delin-  
16 quency of a minor and any sex crimes of a person who holds or applies  
17 for a position in which the person has or would have supervisory or  
18 disciplinary power over a minor. The attorney general [COMMISSION]  
19 shall authorize the disclosure of the information to the requesting  
20 interested person and [SHALL PROVIDE] a copy of the information must  
21 be provided to the person who is the subject of the request.

22 \* Sec. 7. AS 12.62.035(b) is amended to read:

23 (b) A request for records under (a) of this section must [SHALL]  
24 include within it the fingerprints of the person who is the subject of  
25 the request and any other data specified in regulations adopted by the  
26 attorney general [COMMISSION]. The request must [SHALL] be on a form  
27 approved by the attorney general [COMMISSION], and [THE COMMISSION MAY  
28 CHARGE] a fee may be charged to [BE PAID BY] the requesting interested  
29 person for the actual cost of processing the request. Applications

1 for information under (a) of this section must be destroyed [THE  
2 COMMISSION SHALL DESTROY AN APPLICATION] within six months after the  
3 requested information is sent to the requesting interested person and  
4 the person who is the subject of the request.

5 \* Sec. 8. AS 12.62.035(c) is amended to read:

6 (c) The attorney general [COMMISSION] shall adopt regulations to  
7 implement the provisions of this section.

8 \* Sec. 9. AS 12.62.040(a) is amended to read:

9 (a) Criminal justice information systems must [SHALL]

10 (1) be dedicated to law enforcement purposes and be under  
11 the management and control of law enforcement agencies unless exempted  
12 under regulations adopted under AS 12.62.010;

13 (2) include operating procedures approved by the attorney  
14 general [COMMISSION] which are reasonably designed to assure the  
15 security of the information contained in the system from unauthorized  
16 disclosure, and reasonably designed to assure that criminal offender  
17 record information in the system is regularly and accurately revised  
18 to include subsequently furnished information;

19 (3) include operating procedures approved by the attorney  
20 general [COMMISSION] which are designed to assure that information  
21 concerning an individual must [SHALL] be removed from the records,  
22 based on considerations of age, nature of record, and reasonable  
23 interval following the last entry of information indicating that the  
24 individual is still under the jurisdiction of a law enforcement agen-  
25 cy.

26 \* Sec. 10. AS 12.62.050 is amended to read:

27 Sec. 12.62.050. INTERSTATE SYSTEMS FOR THE EXCHANGE OF CRIMINAL  
28 JUSTICE INFORMATION. (a) The attorney general [COMMISSION] shall  
29 regulate the participation by all state and local criminal justice

1 agencies in an interstate system for the exchange of criminal justice  
2 information, and is [SHALL BE] responsible for assuring [TO ASSURE]  
3 the consistency of the participation with the provisions and purposes  
4 of this chapter. The attorney general [COMMISSION] may not compel any  
5 criminal justice agency to participate in an interstate system.

6 (b) Direct access to an interstate system for the exchange of  
7 criminal justice information must [SHALL] be limited to those criminal  
8 justice agencies that are expressly designated for that purpose by the  
9 attorney general [COMMISSION]. When the system employs telecommuni-  
10 cations access terminals, the attorney general [COMMISSION] shall  
11 limit the number and placement of the terminals to those for which  
12 adequate security measures may be taken and as to which the attorney  
13 general [COMMISSION] may impose appropriate supervisory regulations.

14 \* Sec. 11. AS 12.62.070 is amended to read:

15 Sec. 12.62.070. DEFINITIONS. In this chapter

16 (1) "attorney general" means the principal executive offi-  
17 cer of the Alaska Department of Law or that person's designee ["COM-  
18 MISSION" MEANS THE GOVERNOR'S COMMISSION ON THE ADMINISTRATION OF  
19 JUSTICE ESTABLISHED UNDER AS 44.19.110 -- 44.19.122;]

20 (2) "criminal justice information" means information con-  
21 cerning an individual in a criminal justice information system and  
22 indexed under the individual's name, or retrievable by reference to  
23 the individual by name or otherwise and which is collected or stored  
24 in a criminal justice information system;

25 (3) "criminal justice information system" means a system,  
26 including the equipment, facilities, procedures, agreements, and  
27 organizations related to the system funded in whole or in part by the  
28 Law Enforcement Assistance Administration, for the collection, pro-  
29 cessing, or dissemination of criminal justice information;

1           (4) "intelligence information" means information concerning  
2 the background, activities, or associations of the individual or group  
3 collected or obtained by a law-enforcement agency for preventive,  
4 precautionary, or general investigative purposes not directly connect-  
5 ed with the investigation of a specific crime which has been committed  
6 nor with the apprehension of a specific person in connection with the  
7 commission of a particular crime;

8           (5) "interstate systems" means agreements, arrangements,  
9 and systems for the interstate transmission and exchange of criminal  
10 justice information, but does not include record keeping systems in  
11 the state maintained or controlled by a state or local agency, or a  
12 group of agencies, even if the agency receives information through, or  
13 otherwise participates in, systems for the interstate exchange of  
14 criminal justice information;

15           (6) "law enforcement" means any activity relating to crime  
16 prevention, control, or reduction; [OR] the enforcement of the crimi-  
17 nal prevention, control, or reduction; or the enforcement of the  
18 criminal law, including, but not limited to, police efforts to pre-  
19 vent, control, or reduce crime or to apprehend criminals, activities  
20 of criminal prosecution, courts, public defender, corrections, pro-  
21 bation, or parole authorities;

22           (7) "law enforcement agency" means a public agency which  
23 performs as one of its principal functions activities pertaining to  
24 law enforcement, and includes the child support enforcement agency  
25 created by AS 47.23.

26 \* Sec. 12. AS 14.43.250(b) is amended to read:

27           (b) The purposes of the several memorial scholarship accounts in  
28 the memorial scholarship revolving loan fund are as follows:

29           (1) the Michael Murphy Memorial Scholarship perpetuates the

1 memory of Michael Murphy, a member of the Alaska State Troopers, who,  
2 while on leave from that division, gave his life for his adopted  
3 community in Vietnam on May 22, 1968;

4 (2) the Carroll L. "Butch" Swartz Memorial Scholarship  
5 perpetuates the memory of Carroll L. "Butch" Swartz, of Juneau, who  
6 was a student intern with the Criminal Justice Planning Agency and the  
7 former Governor's Commission on the Administration of Justice during  
8 the summer months of 1972 and 1973 and whose accidental and untimely  
9 death in November 1973, occurred while he was completing his under-  
10 graduate education at Yale University, thus never realizing his educa-  
11 tional goals or career objective;

12 (3) the Harvey Golub Memorial Scholarship perpetuates the  
13 memory of Harvey Golub, of Juneau, who was chief engineer of the  
14 bridge design section of the Department of Highways of the State of  
15 Alaska and whose accidental and untimely death September 13, 1971, cut  
16 short a widely-respected career in civil engineering; and

17 (4) the Robert L. Thomas Memorial Scholarship perpetuates  
18 the memory of Robert L. Thomas, of Juneau, who as deputy commissioner  
19 of education, and for 13 years as a member of the professional staff  
20 of that department contributed significantly to the creation, opera-  
21 tion and administration of a sound system of public education in  
22 Alaska and whose tragic and untimely death March 12, 1974, terminated  
23 a distinguished career in education and public administration that  
24 long will be exemplary for those who aspire to service in that profes-  
25 sion.

26 \* Sec. 13. AS 14.43.310(b)(2), AS 18.65.250, AS 39.50.200(b)(17),  
27 AS 44.19.110, 44.19.112, 44.19.114, 44.19.116, 44.19.118, 44.19.120, and  
28 44.19.122 are repealed.