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Referred: Finance

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1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 183 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the Governor's Commission on the
7 Administration of Justice and to intelligence infor-
8 mation."

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) The Governor's Commission on
12 the Administration of Justice established under AS 44.19.110 - 44.19.-
13 122 may [IS AUTHORIZED], after appropriate consultation with represen-
14 tatives of state and local law enforcement agencies participating in
15 information systems covered by this chapter, [TO] adopt regulations
16 and, by regulation, establish procedures considered necessary to
17 facilitate and regulate the exchange of criminal justice information
18 and to insure the security and privacy of criminal justice information
19 systems. The notice and hearing requirements of the Administrative
20 Procedure Act (AS 44.62), relating to the adoption of regulations,
21 apply to regulations adopted under this chapter.

22 (b) In addition to regulations adopted under (a) of this sec-
23 tion, the commission shall, after appropriate consultation with rep-
24 resentatives of state and local law enforcement agencies, adopt regu-
25 lations [AND PROCEDURES] governing the gathering of intelligence
26 information and the storage, security, and privacy of the intelligence
27 information collected and maintained by law enforcement agencies in
28 the state. [THE NOTICE AND HEARING REQUIREMENTS OF THE ADMINISTRATIVE
29 PROCEDURE ACT (AS 44.62), RELATING TO THE ADOPTION OF REGULATIONS,

1 APPLY TO REGULATIONS ADOPTED UNDER THIS SUBSECTION.] In adopting
2 these regulations, the commission shall take into account both the
3 interest of law enforcement agencies in maintaining the ability to
4 conduct intelligence operations and each individual's right to pri-
5 vacy.

6 * Sec. 2. AS 12.62.015(a) is amended to read:

7 (a) Regulations of the commission adopted under AS 12.62.010(b)
8 must [SHALL] include requirements and guidelines concerning the cat-
9 egories of intelligence information that [WHICH] may be gathered by
10 law enforcement agencies in the state, the purposes for which intelli-
11 gence information may be collected, and the methods and procedures
12 that [WHICH] may be used in collecting intelligence information. The
13 regulations must restrict methods and procedures for collecting intel-
14 ligence information to methods and procedures likely to result in
15 relevant and reliable information.

16 * Sec. 3. AS 12.62.015 is amended by adding a new subsection to read:

17 (c) A law enforcement agency in the state may not gather or
18 retain intelligence information unless the information pertains to an
19 individual or group that is reasonably suspected of engaging in crimi-
20 nal activity.

21 * Sec. 4. AS 12.62.030(c) is amended to read:

22 (c) A person has [SHALL HAVE] the right to inspect criminal
23 justice information that refers to the person. If a person believes
24 the information to be inaccurate, incomplete, or misleading, the
25 person may request the criminal justice agency having custody or
26 control of the records to purge, modify or supplement them. When the
27 agency responds to the person's request, the agency shall notify the
28 person of the right to request a review from the commission under this
29 subsection. If the agency declines to implement the person's request

1 [DO SO], or if the person believes the agency's decision to be other-
2 wise unsatisfactory, the person may in writing request review by the
3 commission within 60 days after [OF] the decision of the agency. If
4 it finds a basis for complaint, the [THE] commission or [,] its rep-
5 resentative or agent shall [, IN A CASE IN WHICH IT FINDS A BASIS FOR
6 COMPLAINT,] conduct a hearing at which the person may appear with
7 counsel, present evidence, and examine and cross-examine witnesses.
8 Written findings and conclusions shall be issued and a copy of them
9 sent to the person requesting review with a notice of the person's
10 right to appeal under (f) of this section. If the record in question
11 is found to be inaccurate, incomplete or misleading, the commission
12 shall order it to be appropriately purged, modified or supplemented by
13 an explanatory notation. An agency or person in the state with cus-
14 tody, possession or control of the record shall promptly have every
15 copy of the record altered in accordance with the commission's order.
16 The commission shall promptly notify [NOTIFICATION OF A DELETION,
17 AMENDMENT AND SUPPLEMENTARY NOTATION SHALL BE PROMPTLY DISSEMINATED BY
18 THE COMMISSION TO] persons or agencies to which records in question
19 have been communicated, and [AS WELL AS TO] the person whose records
20 have been altered, of a deletion, amendment, or supplementary nota-
21 tion.

22 * Sec. 5. AS 12.62.030(e) is amended to read:

23 (e) The commission shall adopt regulations for access to crimi-
24 nal justice information and establishing reasonable [REASONABLE] hours
25 and places of inspection, and any additional restrictions, including
26 fingerprinting, that are reasonably necessary both to assure the
27 record's security and to verify the identity of a person who seeks to
28 inspect a record [IDENTITIES OF THOSE WHO SEEK TO INSPECT THEM MAY BE
29 PRESCRIBED BY PUBLISHED RULES]. Fingerprints taken under this sub-

1 section may not be transferred to another agency or used for any other
2 purpose.

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

4 (a) Notwithstanding any other provision of law, an interested
5 person as defined in (e) of this section may request from the commis-
6 sion records of all convictions involving contributing to the delin-
7 quency of a minor and any sex crimes of a person who holds or applies
8 for a position in which the person has or would have supervisory or
9 disciplinary power over a minor. The requesting interested person
10 shall include with the request a written authorization, signed by the
11 subject of the request, indicating that the subject consents to re-
12 lease of the records to the interested person. If the commission is
13 satisfied that the subject of the request has authorized release of
14 the information, the [THE] commission shall authorize the disclosure
15 of the information to the requesting interested person and shall
16 provide a copy of the information to the person who is the subject of
17 the request.

18 * Sec. 7. AS 12.62.040(a) is amended to read:

19 (a) Criminal justice information systems shall

20 (1) be dedicated to law enforcement purposes and be under
21 the management and control of law enforcement agencies unless exempted
22 under regulations adopted under AS 12.62.010;

23 (2) include operating procedures approved by the commission
24 that [WHICH] are [REASONABLY] designed to assure the security of the
25 information contained in the system from unauthorized disclosure, and
26 [REASONABLY] designed to assure that criminal offender record informa-
27 tion in the system is regularly and accurately revised to include
28 subsequently furnished information;

29 (3) include operating procedures approved by the commission

1 which are designed to assure that information concerning an individual
2 shall be removed from the records, based on considerations of age,
3 nature of record, and reasonable interval following the last entry of
4 information indicating that the individual is still under the juris-
5 diction of a law enforcement agency.

6 * Sec. 8. AS 12.62.040 is amended by adding a new subsection to read:

7 (c) The commission shall adopt regulations that require a law
8 enforcement agency to modify, supplement, or purge from the criminal
9 justice information system

10 (1) inaccurate information; or

11 (2) information gathered or entered in violation of this
12 chapter.

13 * Sec. 9. AS 12.62.060(b) is amended to read:

14 (b) A person who [WILFULLY] disseminates or uses criminal jus-
15 tice information knowing the [SUCH] dissemination or use to be in
16 violation of this chapter, or who knowingly collects, obtains or uses
17 intelligence information in violation of this chapter, is guilty of a
18 class C felony [UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT MORE
19 THAN \$1,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY
20 BOTH].

21 * Sec. 10. AS 12.62.060(c) is amended to read:

22 (c) A good faith reliance upon the provisions of this chapter or
23 of applicable law governing maintenance, dissemination, or use of
24 criminal justice information, or upon [RULES,] regulations adopted [,
25 OR PROCEDURES PRESCRIBED] under this chapter is a defense to a civil
26 or criminal action brought under this chapter.

27 * Sec. 11. AS 12.62.070(3) is amended to read:

28 (3) "criminal justice information system" means a system [,
29 INCLUDING THE EQUIPMENT, FACILITIES, PROCEDURES, AGREEMENTS, AND

1 ORGANIZATIONS RELATED TO THE SYSTEM FUNDED IN WHOLE OR IN PART BY THE
2 LAW ENFORCEMENT ASSISTANCE ADMINISTRATION,] for the collection, pro-
3 cessing, or dissemination of criminal justice information;

4 * Sec. 12. AS 44.19.112 is repealed and reenacted to read:

5 Sec. 44.19.112. MEMBERSHIP AND MEETINGS. (a) The commission is
6 composed of the attorney general, the public defender, and three
7 public members appointed by the governor. One of the public members
8 must be experienced in the field of computer science.

9 (b) The commission shall elect a member to serve as chair and
10 may elect other officers. Terms of officers are for one year.

11 (c) The commission shall meet at least once each year at the
12 call of the chair.

13 * Sec. 13. AS 44.19.114 is amended to read:

14 Sec. 44.19.114. COMPENSATION AND PER DIEM. Members of the
15 commission receive no salary for their service on the commission. The
16 public members [BUT] are entitled to per diem and travel expenses
17 authorized by law for boards and commissions.

18 * Sec. 14. AS 44.19.122 is repealed and reenacted to read:

19 Sec. 44.19.122. STAFF. The Department of Law shall provide
20 staff for the commission without expense to the commission.

21 * Sec. 15. Each criminal justice agency in the state that has entered
22 intelligence information into the criminal justice information systems
23 shall review that information and immediately purge from the system any
24 information that does not meet the requirements of this Act.

25 * Sec. 16. AS 44.19.118 and 44.19.120(a) are repealed.