

Offered: 4/18/85
Referred: Judiciary

Original sponsors: Ferguson, Kelly,
Faiks, et al

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 21 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to criminal background checks; and
7 providing for an effective date."

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

9 * Section 1. AS 12.62.035(a) is amended to read:

10 (a) Notwithstanding any other provision of law, an interested
11 person [AS DEFINED IN (e) OF THIS SECTION] may request from the com-
12 mission records of all convictions of an individual for crimes that
13 might pose a risk of harm to a child if the individual [INVOLVING
14 CONTRIBUTING TO THE DELINQUENCY OF A MINOR AND ANY SEX CRIMES OF A
15 PERSON WHO] holds or applies for a position in which the individual
16 [PERSON] has or would have supervisory or disciplinary power over a
17 minor. The commission shall authorize the disclosure of the informa-
18 tion to the requesting interested person and shall provide a copy of
19 the information to the individual [PERSON] who is the subject of the
20 request.

21 * Sec. 2. AS 12.62.035(e)(1) is repealed and reenacted to read:

22 (1) "crime that might pose a risk of harm to a child"
23 includes a violation or attempted violation of present or former
24 Alaska statutes regarding the offenses now designated as murder,
25 manslaughter, negligent homicide, assault, reckless endangerment,
26 kidnapping, sexual assault, sexual abuse of a minor, unlawful ex-
27 ploitation of a minor, incest, indecent exposure, robbery, arson,
28 endangering the welfare of a minor, contributing to the delinquency of
29 a minor, distribution of child pornography, promoting prostitution,

1 and felony offenses involving distribution of controlled substances;
2 it also includes a violation or attempted violation of the laws of
3 another jurisdiction if the offense would have been one of the crimes
4 listed in this paragraph if committed in this state;

5 * Sec. 3. AS 12.62.035 is amended by adding a new subsection to read:

6 (f) In addition to the information for which disclosure is
7 authorized under (a) of this section, the commission may disclose the
8 existence of an outstanding warrant for the arrest of the person who
9 is the subject of the request if the warrant is for a crime that might
10 pose a risk of harm to a child.

11 * Sec. 4. AS 25.23.100(d) is amended to read:

12 (d) Except as provided in (g) and (i) of this section, an inves-
13 tigation shall be made by the department or any other qualified agency
14 or person designated by the court to inquire into the conditions and
15 antecedents of a minor sought to be adopted and of the petitioner for
16 the purpose of ascertaining whether the adoptive home is a suitable
17 home for the minor and whether the proposed adoption is in the best
18 interest of the minor. The department shall request a state and
19 national criminal record background check by the Department of Public
20 Safety on each person who seeks to adopt a minor.

21 * Sec. 5. AS 47.35 is amended by adding a new section to read:

22 Sec. 47.35.058. CRIMINAL RECORD BACKGROUND CHECKS. (a) For
23 each person working or applying for work as a staff member of a facil-
24 ity and for each adult occupant who works or resides in a facility,
25 the department shall

26 (1) request a state and national criminal record background
27 check by the Department of Public Safety;

28 (2) require a signed release authorizing the department to
29 obtain the person's criminal records and to investigate reports,

1 arrests, and convictions that indicate past behavior by the person
2 that may pose a risk of harm to a child or to a dependent adult; and

3 (3) require the person to reveal, subject to the penalty
4 for unsworn falsifications under AS 11.56.210, any pending trial of
5 the person, or any allegation or charge against the person or con-
6 viction of the person of a crime that might pose a risk of harm to a
7 child, as defined in AS 12.62.035, regardless of whether the allega-
8 tion resulted in criminal charges being filed or whether the charge
9 was dismissed or whether the conviction was later set aside or cleared
10 from the person's record.

11 (b) The department shall request a state and national criminal
12 record background check on each facility administrator, each adult
13 occupant of a foster home or family child care home, and each facility
14 operator other than a board member of an incorporated facility who
15 does not participate in the day-to-day operation of the facility. The
16 department may license or continue to license only provisionally, and
17 a facility may employ or continue to employ only provisionally, a
18 person subject to a criminal record background check under this sub-
19 section until the state criminal record background check has been
20 completed and the department has determined, on the basis of the state
21 check and other information available to the department, that the
22 person does not pose a risk of harm to a child or dependent adult. A
23 person subject to a criminal record background check under this sub-
24 section may not be licensed under AS 47.35.040 or permanently employed
25 by a facility until the department has reviewed the state and national
26 criminal record background check and has determined that the person
27 does not pose a risk of harm to a child or dependent adult. Notwith-
28 standing the requirements of this subsection, the department may
29 authorize temporary emergency placement of a child or dependent adult

1 in a foster home before reviewing either the state or national crimi-
2 nal record background check.

3 (c) An operator of a facility other than a foster home or family
4 child care home shall, under the authority of AS 12.62, request a
5 state and national criminal record background check on each staff
6 member and each adult occupant of the facility. The facility operator
7 may employ or continue to employ a staff member only provisionally,
8 and may allow an adult occupant to reside in the facility only provi-
9 sionally, until the operator has reviewed the state and national
10 criminal record background check and has determined that the staff
11 member or adult occupant does not pose a risk of harm to a child or
12 dependent adult. A facility operator shall remove from the facility a
13 staff member or adult occupant whom the operator has determined poses
14 a risk of harm to a child or dependent adult.

15 (d) The department shall pay the cost of the state and national
16 criminal background check of a foster home applicant who cares for
17 children in state custody or cares for a dependent adult in state
18 protective care. The cost of any other state and national criminal
19 background check required under this section shall be paid by the
20 facility operator or the job applicant.

21 (e) In this section, "family child care home" means a small
22 nursery providing child care for six or fewer children who are not
23 related to the facility operator.

24 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
25 10.070(c).