

H

B

9

1

COMMITTEE REPORT  
SENATE

FURTHER:

5-27/12

Date: \_\_\_\_\_

Mr. President:

The Committee on \_\_\_\_\_ has had \_\_\_\_\_

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Joe Josephson  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CHAIRMAN



POUCH V  
JUNEAU, ALASKA 99811

REPRESENTATIVE  
ROBERT H. "BOB" BETTISWORTH

211 CUSHMAN STREET  
FARBANKS, ALASKA 99701

MEMORANDUM

TO: Senator Bill Ray, Chairman  
Senate Judiciary Committee

DATE: January 12, 1983

FROM: Representative Bettisworth *RHB*

RE: Scheduling of SCSHB 91 (HESS) "An Act relating to disclosure of vital statistic records and information; and providing for an effective date."

At this time I would like to request that SCSHB 91 (HESS) be scheduled for hearings by the Senate Judiciary Committee at your earliest convenience.

As you can see, the House Judiciary Committee made two changes to the original bill:

1. Amended language on lines 20 & 21 to include other than genealogical or historical research; and
2. deletion of regulative authority by the Department, line 25.

These changes appear to be somewhat restrictive and cumbersome and were removed by the Senate HESS Committee in the current version of the bill. This version of HB 91 is consistent with my original intent.

I will be out of town during the week of January 16-22 and will be available beginning January 23. My staff member, Linda Otey, can be contacted for any further information. Thank you for your consideration of this request.

6-9-83

## "An Act relating to disclosure of vital statistics records"

The amendment to AS 18.50.310 to add a new subsection under (f) is similar to a provision in the Model State Vital Statistics Act which is endorsed by the Council of State Governments.

By making public, birth records after 100 years, and death, marriage, and divorce records after 50 years, it will satisfy the need expressed by many who desire to research their "roots". Because of the model law, many states have enacted this provision, with success, because, those vital records relating to the living and next of kin, are still primarily protected.

Passage of Senate CS For CS For House Bill No. 91 (HESS) would make public about 33,000 of the 700,000 records in the custody of the State Registrar of Vital Statistics.

It is acknowledged that care must be exercised in providing a place for the public review of these records, while assuring the continued safekeeping of the documents. The existing staff can monitor the record review.

The Department of Health and Social Services recommends passage of Senate CS for CS for House Bill No. 91 (HESS).

RECOMMENDED BY:

*Joan F. Brooks*  
 JOAN F. BROOKS  
 STATE REGISTRAR  
 BUREAU OF VITAL STATISTICS

DATE:

*June 2, 1983*

RECOMMENDED BY:

*Daniel J. Middleton*  
 DANIEL J. MIDDLETON  
 DIRECTOR  
 DIVISION OF PLANNING, POLICY,  
 AND PROGRAM EVALUATION

DATE:

*June 2, 1983*

APPROVED BY:

*Robert London Smith*  
 ROBERT LONDON SMITH, PH.D.  
 COMMISSIONER

DATE:

*6/7/83*

I. REQUEST  
 Bill/Resolution No.: SCS for CS for HB91  
 Title: Disclosure of Vital Statistics  
 Sponsor: BOTTISWORTH  
 Requestor: Senate HES

II. FISCAL DETAIL  
 Agency Affected: Health & Social Services  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funding was not identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Joseph P. Broake MA Phone: 465-3391  
 Division: Planning, Policy & Program Evaluation/ Vital Statistics Date: June 2, 1983

Approved by Commissioner: Robert London Smith Ph.D. Date: 6/7/83  
 Department: Department of Health and Social Services

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

and upon the purposes of this of the periods for the filing of cates, medical of permits, in d period would

burial-transit ate of death or ance with the th the require- of the permit 0)

ificate of mar- filed with the t in which the iage.

ll prepare the ished by the n regulations

the forms as ed under this with the local

t to t.e state on forms pre- ion required eding month.

olution and ment of mar- shall prepare ent with the au. The peti- nation neces- s information

e court shall , divorce and nth and the his chapter.

**Effect of amendments.** — The amendment inserted "dissolution" near the beginning and near the middle of the first sentence of subsection (a) and near

the middle of subsection (b), and inserted "petitioner or" at the beginning of the second sentence of subsection (a).

**Article 4. Records.**

**Section**

- 290. Corrections and amendments
- 300. Reproduction of records
- 310. Disclosure of records
- 320. Copies of data from vital records

**Section**

- 330. Fees for services
- 340. Persons required to keep records
- 350. Duty to furnish information

**Collateral references.** — 39 Am. Jur. 2d, Health, § 51; 66 Am. Jur. 2d, Records and Recording Laws, §§ 1-30. 39A C.J.S., Health and Environment, §§ 41, 42.

**Sec. 18.50.290. Corrections and amendments.** (a) A certificate or record registered by the bureau may be amended only in accordance with this chapter and the regulations the department adopts to protect the integrity and accuracy of vital statistics records.

(b) A certificate that is amended under this section shall be marked "amended," with the date of amendment. A summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The department shall prescribe by regulation the conditions under which additions or minor corrections may be made to vital statistics records without the certificate being considered amended.

(c) Upon receipt of a certified copy of a court order changing the name of a person born in the state and upon request of the person or his parent, guardian, or legal representative, the state registrar shall amend the certificate of birth to reflect the new name.

(d) When a certificate is corrected or amended under this section, the state registrar shall instruct the local custodian of the copy of the certificate to make the changes in the copy. (§ 25 ch 118 SLA 1960)

**Sec. 18.50.300. Reproduction of records.** To preserve original documents the state registrar may prepare typewritten, photographic, or other reproductions of original records and files in his office. When certified by him, the reproduction shall be accepted as the original record. (§ 26 ch 118 SLA 1960)

**Sec. 18.50.310. Disclosure of records.** (a) To protect the integrity of vital statistics records, to insure their proper use, and to insure the efficient and proper administration of the vital statistics system, it is unlawful for a person to permit inspection of, or to disclose information contained in vital statistics records, or to copy or issue a copy of all or

SCW 4391

part of a record, except as authorized by regulations issued under this chapter.

(b) The bureau may permit the use of data contained in vital statistics records for research purposes.

(c) Information in vital statistics records indicating that a birth occurred out of wedlock shall not be disclosed except upon order of a superior court or as provided by regulations.

(d) Appeals from decisions of the custodians of local records refusing disclosure under (a) and (b) of this section shall be made to the state registrar, whose decision is binding upon the custodian of local records.

(e) The department may by regulation provide for the release of information to authorized representatives of organizations or foundations that counsel the next of kin of victims of infant sudden death syndrome. (§ 27 ch 118 SLA 1960; am § 1 ch 132 SLA 1978)

→ HB91  
SCSHB91

(f) *new subsection: statute of limitations*  
Effect of amendments. — The 1978 amendment added subsection (e).

**Sec. 18.50.320. Copies of data from vital records.** Except as otherwise provided and in accordance with the regulations adopted under AS 18.50.310,

(1) the bureau and the custodian of permanent local records shall, upon request, issue a certified copy of a certificate or record in their custody, or a part of it and each copy issued shall show the date of registration or recording; and copies issued from records marked "delayed," "amended," or "court order" shall be similarly marked and shall show the effective date;

(2) a certified copy of a certificate or a part of it issued in accordance with (1) of this section is considered the original for all purposes, and is prima facie evidence of the facts stated, provided that the evidentiary value of a certificate or record filed more than one year after the event, or a record which has been amended, or a presumptive death certificate, shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence;

(3) the National Office of Vital Statistics may be furnished the copies or data it requires for national statistics, if the bureau is reimbursed for the cost of furnishing the data and the National Office of Vital Statistics shall not use the data for purposes other than statistical purposes unless authorized by the state registrar;

(4) federal, state, local, and other public or private agencies, upon request, may be furnished copies or data for statistical purposes on the terms or conditions prescribed by the bureau;

(5) no person or agency may prepare or issue a certificate or part of a certificate which purports to be an original, certified copy, or copy of a certificate of birth, death, fetal death, or marriage, except as authorized in this chapter or the regulations adopted under it. (§ 28 ch 118 SLA 1960)

**Sec. 09.25.090. Objections to tender.** The person to whom a tender is made shall at the time specify any objection the person may have to the money, instrument, or property, or the person waives it. If the objection is to the amount of money, the terms of the instrument, or the amount or kind of property, the person shall specify the amount, terms, or kind which the person requires, or is precluded from objecting later. This section shall not be construed to modify or change in any manner corresponding provisions of the Uniform Commercial Code (AS 45.01 — 45.09). (§ 3.20 ch 101 SLA 1962)

#### NOTES TO DECISIONS

It is not necessary to tender cash. constitute a proper tender. Ward v. Ward v. Miller, 13 Alaska 752 (1952) Miller, 13 Alaska 752 (1952).  
And a check, unobjected to, would

**Sec. 09.25.100. Disposition of tax information.** Information in the possession of the Department of Revenue which discloses the particulars of the business or affairs of a taxpayer or other person is not a matter of public record, except for purposes of investigation and law enforcement. The information shall be kept confidential except when its production is required in an official investigation or court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports and items, or prohibit the publication of tax lists showing the names of taxpayers who are delinquent and relevant information which may assist in the collection of delinquent taxes. (§ 3.21 ch 101 SLA 1962)

**Collateral references.** — Validity, construction, and effect of state laws requiring state officials to protect confidentiality of income tax returns and information, 1 ALR4th 959.

**Sec. 09.25.110. Inspection and copies of public records.** Unless specifically provided otherwise the books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of costs a certified copy of the public record. (§ 3.22 ch 101 SLA 1962)

**Cross references.** For proof of public records, see Evid. R. 1005; for management and preservation of public records, see AS 40.21.

NOTES TO DECISIONS

to whom a ten-  
person may have  
waives it. If the  
instrument, or the  
amount, terms,  
objecting later.  
in any manner  
Code (AS 45.01

r tender. Ward v.  
(1952).

Information in  
discloses the par-  
er person is not  
igation and law  
ial except when  
n or court pro-  
tion of statistics  
n of particular  
sts showing the  
nt information  
(§ 3.21 ch 101

s returns and infor-

records. Unless  
papers, files,  
id departments  
blic under rea-  
icer having the  
ment of costs a  
1962)

ervation of public

For discussion of the history of this section, see *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**Broad policy.** — This section and AS 09.25.120 articulate a broad policy of open records. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

The "agencies and departments" language used in this section must be read as referring to the agencies and departments of the governments to which the statute applies, but that language itself does not define what the applicable level of government is. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

The word "public" as used in this section and AS 09.25.120 with "officer" refers both to state and local officials. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**Application to municipalities.** — The provisions of this section are applicable to municipalities. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

In light of the common law rule, legislative history, and the court's reading of the

sections, the state supreme court will construe this section and AS 09.25.120 as that court would have construed them prior to 1957, which is as a strong legislative declaration that records in the possession of municipalities shall be available for public inspection, subject to exceptions based on need. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**Disclosure of applications for public posts.** — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular, requires public disclosure and inspection of applications for posts having substantial discretionary authority. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**University of Alaska.** — The legislature intended to include the University of Alaska within the scope of state agencies subject to the public records statute. *Carter v. Alaska Pub. Employees Ass'n*, Sup. Ct. Op. No. 2657 (File No. 6586), P.2d (1983).

The president of the University of Alaska is a public officer for purposes of this section. *Carter v. Alaska Pub. Employees Ass'n*, Sup. Ct. Op. No. 2657 (File No. 6586), P.2d (1983).

**Collateral references.** — Finding of draft board as evidence of physical condition of one registered, 16 ALR 247.

Admissibility of report of public officer

or employee on cause of or responsibility for injury to person or damage to property, 153 ALR 163; 69 ALR2d 1148.

**Sec. 09.25.120. Inspection and copying of public records.** Every person has a right to inspect a public writing or record in the state, including public writings and records in recorders' offices except (1) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the

original. Recordors shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants, and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recordors and their employees. (§ 3.23 ch 101 SLA 1962)

#### NOTES TO DECISIONS

**For discussion of the history of this section,** see *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**Broad policy.** — AS 09.25.110 and this section articulate a broad policy of open records. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**Effect of "in the state" language.** — When the legislature chose to say "in the state," and not "of the state" in the first sentence of this section, they were conscious of the fact that they were defining scope and had it been intended to limit the application of this section to state agencies and departments, it could easily and clearly have done so. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**The word "public" as used in AS 09.25.110 and this section with "officer"** refers both to state and local officials. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**Application to municipalities.** — The provisions of AS 09.25.110 and this section are applicable to municipalities. *City of Kenai v. Kenai Peninsula Newspapers,*

*Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

In light of the common law rule, legislative history, and the court's reading of the sections, the state supreme court will construe AS 09.25.110 and this section as that court would have construed them prior to 1957, which is as a strong legislative declaration that records in the possession of municipalities shall be available for public inspection, subject to exceptions based on need. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**Disclosure of applications for public posts.** — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular requires public disclosure and inspection of applications for posts having substantial discretionary authority. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**University of Alaska.** — The legislature intended to include the University of Alaska within the scope of state agencies subject to the public records statute. *Carter v. Alaska Pub. Employees Ass'n.*, Sup. Ct. Op. No. 2657 (File No. 6586), P.2d (1983).

**Collateral references.** — 66 Am. Jur 2d, Records and Recording Laws, §§ 12-31.

76 C.J.S., Records, §§ 34-41.

Validity, construction, and application of statutes making public proceedings open to the public. 38 ALR3d 1070.

Confidentiality of records as to recip-

s. and copies of  
be made by  
g titles to real  
king abstracts  
real estate, or  
d shall furnish  
ul occasion for  
oses, subject to  
irection of the  
gs and records  
of the duties of  
1962)

79 (File Nos. 4954,  
982).  
i law rule, legisla-  
rt's reading of the  
reme court will  
nd this section as  
nd construed them  
+ a strong legisla-  
ords in the pos-  
shall be available  
ect to exceptions  
Kenai v. Kenai  
Inc., Sup. Ct. Op.  
1, 5433, 642 P.2d

ations for public  
interest in the dis-  
of government  
selection process  
ds in particular  
re and inspection  
having substan-  
ity. City of Kenai  
papers, Inc., Sup.  
Nos. 4954, 5433).

t. — The legisla-  
the University of  
of state agencies  
records statute.  
Employees Ass'n,  
de No. 6586).

and application  
the proceedings  
R3d 1070.  
ords as to recip-

ients of public welfare. 54 ALR3d 768.

Validity, construction, and application  
of statutory provisions relating to public  
access to police records. 82 ALR3d 19.

Restricting access to judicial records of  
state courts. 84 ALR3d 598.

Payroll records of individual govern-  
ment employees as subject to disclosure to  
public. 100 ALR3d 699.

**Sec. 09.25.121. Copies of public records for veterans.** When a copy of a public record is required by the division of veterans' affairs, Department of Commerce and Economic Development or by the United States Veterans' Administration to be used in determining the eligibility of a person to participate in benefits, the official custodian of the public record shall, without charge, provide the applicant for the benefits, a person acting on behalf of the applicant, or an authorized representative of the division of veterans' affairs or the United States Veterans' Administration with a certified copy of the record. (§ 1 ch 35 SLA 1981)

**Revisor's notes.** — Enacted as AS 09.25.123. Renumbered in 1981.

veterans of the armed forces, see AS 26.10.070.

**Cross references.** — As to records of

**Sec. 09.25.125. Enforcement: Injunctive relief.** A person having custody or control of a public record who obstructs or attempts to obstruct, or a person not having custody or control who aids or abets another person in obstructing or attempting to obstruct, the inspection of a public record subject to inspection under AS 09.25.110 or 09.25.120 may be enjoined by the superior court from obstructing, or attempting to obstruct, the inspection of public records subject to inspection under AS 09.25.110 or 09.25.120. (§ 1 ch 74 SLA 1975)

**Sec. 09.25.130. Effect of private seals and scrolls.** Private seals and scrolls as a substitute for seals are abolished. They are not required to an instrument, but when used their effect remains unchanged. (§ 3.10 ch 101 SLA 1962)

**Sec. 09.25.150. Claiming of privilege by public official or reporter.** Except as provided in AS 09.25.150 — 09.25.220, no public official or reporter may be compelled to disclose the source of information procured or obtained while acting in the course of duties as a public official or reporter. (§ 1 ch 115 SLA 1967)

**Cross references.** — For court rule recognizing statutory privileges, see Evid. R. 501.

**Collateral references.** — 81 Am.Jur 2d, Witnesses, §§ 141-147, 287-302.

98 C.J.S., Witnesses, §§ 432-440, 450-457.

Right of one against whom testimony is offered to invoke privilege of communica-

tion between others. 2 ALR2d 645. Admissibility of recordings in evidence as affected by privileged nature of communications. 58 ALR2d 1037.

Construction of statute creating privilege against disclosure of communications made to stenographer or confidential clerk. 96 ALR2d 159.

Privilege of newspaper or magazine and persons connected therewith not to dis-

February 24, 1983

House Health, Education and  
Social Services Committee  
Room 112, Capitol Building  
Pouch V  
Juneau, AK 99811

attn: Mr. Dave Palmer

Although I earnestly wish to testify in person on HB91, I am unable to postpone a trip on March 4th and, therefore, am submitting the following testimony in favor of the bill:

I am both a family and professional genealogist (Alaskan Records Research, Business License number BLO00201); hold a BLA with history emphasis from the University of Alaska, Juneau; am a full-time student in the Master of Arts in Teaching program at Alaska Pacific University; am employed half-time at the UAJ library; tutor history, english, geography, and logic at UAJ; am Alumni Representative on the UAJ Assembly; have published a family history and am currently working (in my spare time) on an historical novel.

With this variety of efforts underway, you can understand why I have little time to spend writing back and forth to prospective clients to obtain the written permissions required before I can access vital statistics data as my client's personal representative.

As it stands now, individuals can obtain vital statistics on their own ancestors but professionals or those working on far distant lateral relatives may not easily do so. A business must be cost-effective. Repeated correspondence is not (unless I raised my fees to cover it, which would price me out of the market). Thus, I simply refer many inquiries to the office of Vital Statistics and so lose the fees I could obtain for doing the research myself.

Passage of this bill will help all who are searching for long-lost relatives who "went up north to the goldrush and were never heard of again."

Being the first of my family to reside in Alaska, I have no family interest in opening Alaska's records. However, I would personally like to see my state on a par with the rest of the country. After tracing several thousand of my own ancestors, lateral, and collateral relatives through most of the northern states and Ontario, and collecting hundreds of official documents dated from 1738 to 1978, I have never been refused a record because of access restrictions except hospital patient records. I feel that this bill is a step in the right direction but could go further. People researching in Alaska should meet with no more roadblocks than I have experienced in other states. I would like to see the time limits of 100 and 50 years reduced to about 30 years, if the purpose is genealogical research. The most persuasive argument against opening birth records is the problem of illegitimacy. Besides the fact that it no longer carries the stigma it once did, a professional genealogist couldn't care less what the records say, all he or she is interested in

2/24/1983

is locating them for the client. The client or individual researcher is a member of the illegitimate child's family and thus has a personal interest in keeping the fact of illegitimacy within the family.

I feel a person's right to know about their own heritage outweighs any "right to privacy" of their ancestors and this includes a person's right to hire a researcher if unable or unwilling to travel to Juneau to do their own research. Therefore, I highly recommend passage of this bill, preferably with an amendment allowing disclosure to genealogists of those vital records not made public by AS 18.50.310(f).

Sincerely



Kit Stewart  
9119 Nagoon Lane  
Juneau, AK 99801  
789-9411

STATE OF ALASKA  
THE LEGISLATURE

HOUSE - STATE CAPITAL  
JUNEAU, ALASKA 99801  
1981-1982

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

October 21, 1981

SUBJECT: Confidentiality of vital statistics records  
(Work Order No. 12-1977)

TO: Representative Roert H. Bettisworth

FROM: Edward H. Hein *EH*  
Legislative Counsel

You have asked whether vital statistics records are confidential and, if so, why they are confidential.

The records of the Bureau of Vital Statistics, Department of Health and Social Services, include chiefly certificates of birth, death, adoption, marriage and divorce. These records are generally confidential and access to them is limited.

Under AS 09.25.120 every person has a right to inspect public records. A specific exception is made, however, for records of vital statistics and adoption proceedings, which are treated as required by Alaska's Vital Statistics Act (AS 18.50.010 - 18.50.380). The Act provides that in order to "protect the integrity of vital statistics records, to ensure their proper use, and to ensure the efficient and proper administration of the vital statistics system", release of records or the information contained in them must be authorized by regulation. The regulations appear in Title 7, Chapter 5 of the Alaska Administrative Code.

Under the regulations, inspection or copying of vital statistics records or disclosure of the information contained in them is not permitted unless "authorized by these regulations, and in accordance with the instructions of the State Registrar." (7 AAC 05.920) The State Registrar has authority to declare that certain parts of particular records are confidential and cannot be copied or recorded in any local office without her specific permission. (7 AAC 05.945)

The regulations specifically provide that a superior court order is required for access to records pertaining to adoption and illegitimacy. (AS 18.05.310; 7 AAC 05.670; 7 AAC 05.935) The regulations also specifically provide for access to particular records as necessary by state or federal government agents acting in the performance of official duties. (7 AAC 05.930) Another regulation allows disclosure of information from vital statistics records for statistical and research purposes, provided that no individuals can be identified from the information furnished. (7 AAC 05.950) The regulations do not specifically provide for release of information to anyone else, even persons named in the records.

The key provision dealing with disclosure of records is 7 AAC 05.925. It provides that a person must fill out an application for inspection, disclosure or copying of records. The applicant must have "a direct interest in the matter recorded", and information must be "necessary for the determination of personal or property rights." The Attorney General last year advised the department that, contrary to the bureau's long-standing interpretation of the regulation, the personal or property right need not belong to the person named in the record or his immediate family. Op. Atty. Gen. (Alaska, January 30, 1980)

State Registrar Joan Brooks says that the bureau provides access to records to the registrant, next-of-kin, legal guardian, legal counsel and others who demonstrate the required "direct interest" under 7 AAC 05.925. She says that the bureau follows guidelines established in the Model State Vital Statistics Act of 1977.

The Alaska Vital Statistics Act (AS 18.50) was based on the 1959 Model Vital Statistics Act. (See 1960 House Journal, pages 498 - 500, enclosed) The section dealing with disclosure (AS 18.50.310) has remained unchanged since 1960. The regulations have been in effect since before statehood, and the State Registrar informs me that the Bureau of Vital Statistics has adhered generally to the current confidentiality policy since 1913, when vital statistics records first started being kept in Alaska.

What little legislative history we have reveals nothing concerning the policy underlying the disclosure provisions

Representative Robert H. Bettisworth  
Page 3  
October 21, 1981

in the statute. One can reasonably assume that a major policy consideration underlying the disclosure provisions is protection of individual privacy. This, of course, is consistent with the right of privacy established in the Alaska Constitution, Article I, sec. 22. A second reason for limiting access was, no doubt, to protect the records from being altered, destroyed, stolen or misfiled by the public. A third reason for limiting disclosure might have been administrative convenience, i.e., preventing the bureau from being overburdened by requests for information.

I have enclosed for your interest a comment on the 1959 Model Act. The comment appeared in Suggested State Legislation for 1961, published by the Council of State Governments. In 1973, Model State Vital Statistics Regulations were proposed. The 1977 Model Act and Model Regulations are the first revisions since 1959 and 1973, respectively.

EMH:ljb

Enclosures

## "An Act relating to disclosure of vital statistics records"

The amendment to AS 18.50.310 to add a new subsection under (f) is similar to a provision in the Model State Vital Statistics Act which is endorsed by the Council of State Governments.

By making public, birth records after 100 years, and death, marriage, and divorce records after 50 years, it will satisfy the need expressed by many who desire to research their "roots". Because of the model law, many states have enacted this provision, with success, because, those vital records relating to the living and next of kin, are still primarily protected.

Passage of H. B. 91 would make public about 33,000 of the 675,000 records in the custody of the State Registrar of Vital Statistics.

It is acknowledged that care must be exercised in providing a place for the public review of these records, while assuring the continued safekeeping of the documents. The existing staff can monitor the record review.

The Department of Health and Social Services recommends passage of House Bill Number 91.

RECOMMENDED BY:

*Joan P. Brooks*  
 JOAN P. BROOKS  
 STATE REGISTRAR  
 BUREAU OF VITAL STATISTICS

Date:

*February 8, 1983*

APPROVED BY:

*Robert London Smith*  
 ROBERT LONDON SMITH, Ph.D.  
 COMMISSIONER  
 DEPARTMENT OF HEALTH &  
 SOCIAL SERVICES

Date:

*2/11/83*

COMMUNICATIONS SECTION / DEPARTMENT OF HEALTH AND SOCIAL SERVICES

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

No: House Bill Number 91 . Date on Bill: \_\_\_\_\_  
 Title: "An Act Relating to disclosure of vital statistics records"  
 Sponsor: \_\_\_\_\_  
 Author: Representative Bettisworth

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	
Capital							
Operating							
Total			0	0	0	0	

b. Revenues:

Revenue							
---------	--	--	--	--	--	--	--

Source of funds to offset fiscal impact of bill:

Responsibility for identification of funding is that of the author of the bill

Assumptions:

Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Barbara Brooks by D. Lee 1984 Phone: 465-3391  
 Division: Planning, Policy and Evaluation/Vital Statistics Date: February 22, 1984  
 Approved by Commissioner: Robert Gordon Smith Date: 2/22/84  
 Department: 12855

Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor

PLEASE RETURN THIS QUESTIONNAIRE TO THE:

# ALASKA VISITORS ASSOCIATION

Please reply to:



**Tourism  
is everybody's  
business.**

LEGISLATIVE KEY CONTACT  
QUESTIONNAIRE



Dear AVA Members:

We need your assistance. AVA is supporting many tourism priorities this session, and you can help make a difference. Our confidential KEY CONTACT Program is one which will enable AVA's Executive Director and lobbyist to enlist your support, when appropriate, to contact a particular legislator about specific AVA legislative goals.

If you wish to be called, please indicate below and send this form back to us, so that we'll know for future mailings.

All information you provide will be kept confidential. While we may only need your assistance once or twice this session, it is helpful to know in advance who can and would be willing to help when the chips are down.

Please fill out the following questionnaire carefully. With your help, we may well reach our 1983 legislative goals.

\* \* \* \* \*

NAME DOROTHY I. CLIFTON

COMPANY VOLUNTEER DIRECTOR " ARCHIVES ALIVE "(VALDEZ HISTORICAL SOCIETY, I:  
CITY OF VALDEZ PAYS ALL OF THE COSTS INVOLVED. (N-  
MAILING ADDRESS P.O. BOX 6 VALDEZ, ALASKA 99686

WE HAVE 3500 SQ. FT. IN THE ROYAL CENTER ON EGAN DRIVE

PHONE (work) (907) 835-4367 (3 PHONES) (home) (907) 835-4367 AND A RECORDER  
USUALLY 24 HOURS UNLESS AT STORE, P.O., OUT OF TOWN... ON 835-4377  
Are you willing to assist in AVA's Key Contact program. YES/NO (Circle)

What special issues are you personally aware of and able to advise AVA about (i.e., state regulations, capital projects, administrative policies or tourism issues).

AN ISSUE ON OUR  
MINDS RIGHT  
NOW.

IN THE ARCHIVES WE HAVE ANY (MOST) SUBJECT COVERED REGARDLESS OF AGE, ET  
WE GET ALL OF THE MAIL-OUTS FROM JUNEAU AND KEEP THEM NUMERICALLY AND SO  
WE GET A DIFFERENT SIDE OF OUR VISITORS TO SOME EXTENT. MANY, MANY ARE  
TO GENEALOGY AND GRANDPA WAS HERE OR I WAS BORN HERE...SEE ATTACHED HOUSE  
BILL NO. 91. WE THOUGHT PEOPLE HAD A RIGHT TO KNOW & THINGS WERE RELAXED  
Do you have any legislative concerns about which you would like  
AVA to watchdog and keep you informed.

VISITORS ARE PEOPLE TOO AS WELL AS PEOPLE THAT LIVE IN OUR STATE. GETTING  
RECORDS WAS BAD ENOUGH BEFORE AND I WAS MAGISTRATE, RECORDER, REGISTRAR  
JUST OVER FIVE YEARS HERE IN VALDEZ (STATE) AND HAD TO COMPLY. WHEN ONE  
DOES FIND OUT THEY ARE ADOPTED OR WHATEVER IT CAUSES A REAL PROBLEM DUE  
LOT OF THINGS LIE; THEY HAVE BEEN LIED TO ALL OF THEIR LIVES, ETC. IN THE  
ARCHIVES WE TRY TO HELP PEOPLE FIND ANSWERS TO WHATEVER AND KEEP THEM IN  
FORMED ABOUT OUR STATE REGARDLESS OF WHAT THE QUESTIONS ARE. THAT IS WHY  
ALL OF US DO WITH OUR VISITORS.

Alaska State Legislature

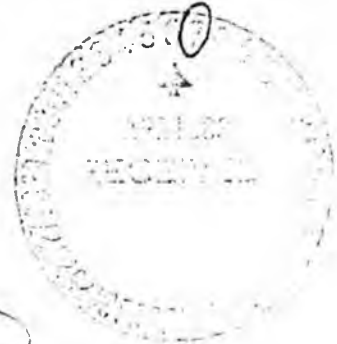


POUCH V  
JUNEAU, ALASKA 99811

REPRESENTATIVE  
ROBERT H. "BOB" BETTISWORTH

P.O. BOX 80288  
COLLEGE, ALASKA 99708

MEMORANDUM



DATE: April 2, 1983  
TO: Rep. Charlie Bussell, Chairman  
House Judiciary Committee  
FROM: Rep. Bob Bettisworth  
RE: HB 91: An Act relating to disclosure of vital  
statistics records and information

I respectfully request that the House Judiciary Committee move  
HB 91 to its next committee of referral.

Your committee staff person, Mr. Steve Cramer, has provided me  
with a draft copy of the House Judiciary Committee's substitute,  
and I readily concur that this version provides clarification  
of the intent.

Again, I urge the House Judiciary Committee's action on this  
bill.

Thank you.

*Bob Bettisworth*

## Identity Protection

a false status, occupation, membership, license, privilege, or identity himself or another person shall be fined not more than \$[ ] or imprisoned not more than [ ] years, or both.

) Any person who uses any such document to commit a crime shall be punished by fine or imprisonment or both equal to that required by law for the accompanying offense. Such sentence shall be served concurrently with that of the accompanying offense.

Section 4. [Severability.] [Insert severability clause.]

Section 5. [Repeal.] [Insert repealer clause.]

Section 6. [Effective Date.] [Insert effective date.]

## Model State Vital Statistics Act (1977 Dec. 1977)

The Model State Vital Statistics Act is a document designed to be used by state registrars of vital statistics and state legislators when considering revision of the vital statistics laws. The main objectives of the 1977 revision of the model act are (1) to incorporate current social customs and practices and current technology into the policies and procedures of the vital statistics system in the states, (2) to promote the uniformity of these policies and procedures to the end that all vital records will be readily acceptable in all places as prima facie evidence of the facts therein recorded, (3) to enhance the level of comparability of vital statistics data among the states, and (4) to minimize duplication within the vital statistics system and thereby achieve maximum administrative economy.

The historical philosophy of the vital statistics systems in the United States is that vital events be registered only in the state in which they occur. This concept is maintained in this revision of the model act. The jurisdiction of the state registrar extends only to boundaries of his state, and standards for registration may be set and enforced only for those events occurring within those boundaries. This is a very important concept in maintaining the validity of vital records in their use for legal purposes. If it is to be respected, the appropriate procedures for recording birth and death information for United States citizens born or dying in foreign countries and certification of birth information for aliens adopted by United States citizens must continue to be the responsibility of those federal agencies which retain jurisdiction over recording these events.

While this revision of the model act does not constitute an abrupt departure from earlier acts, there are several modifications that should be noted. The most significant change relates to the establishment of a centralized system for the collection, processing, registration, and certification of vital records in each state, whereby all vital events are reported directly to the State Office of Vital Statistics. However, the model act contains authorization for local offices to perform those functions the state registrar may direct, including the receipt and processing of vital records and the issuance of certified copies, when such offices can be shown to be an aid to efficient and effective operation of the system. The model act further provides for the options of allowing such local offices to work with records only for their designated geographic area or to be given access to the entire state file and allowing them to issue certified copies without regard to where the event occurred within the state. The important concept, however, is that these offices are part of the State Office of Vital Statistics and are under the direct control of the state registrar.

The recommendation for a change from a locally oriented vital statistics system to a centralized system is based on several considerations: (1) a centralized system produces more timely registration of the records, thereby improving the timeliness of all operations, including publication of statistical data as well as fulfillment of citizens' needs for vital records services; (2) it decreases duplication and cost since many activities presently performed at local vital records offices are repeated at the state office; (3) it reduces the opportunity for fraudulent use of certified copies

Records of each [divorce, dissolution of marriage, or annulment] decree amended during the preceding calendar month.

(c) [Provision for a recording fee may be added here if desired.]

Section 22. [Amendment of Vital Records.]

1) A certificate or report registered under this act may be amended in accordance with this act and regulations adopted by the state agency to protect the integrity and accuracy of vital records.

2) A certificate or report that is amended under this section shall be marked "Amended," except as otherwise provided in this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The state agency shall prescribe by regulation the conditions under which additions or minor corrections may be made to certificates or records within one year after the date of the event without the certificate or record being marked "Amended."

Upon written request of both parents and receipt of a sworn acknowledgment of paternity signed by both parents of a child born out of wedlock, the state registrar shall amend the certificate of birth to show paternity if paternity is not already shown on the certificate of birth. The certificate shall not be marked "Amended."

Upon receipt of a certified copy of an order of [court of competent jurisdiction] changing the name of a person born in this state and upon receipt of such person or his or her parents, guardian, or legal representative, the state registrar shall amend the certificate of birth to show the new name.

Upon receipt of a certified copy of an order of [court of competent jurisdiction] indicating the sex of an individual born in this state has been changed by surgical procedure and that such individual's name has been changed, the certificate of birth of such individual shall be amended [as provided in Regulation 10.8(a)(5)] to reflect such changes.

When an applicant does not submit the minimum documentation required in the regulations for amending a vital record or when the state registrar has reasonable cause to question the validity or adequacy of applicant's sworn statements or the documentary evidence, and if deficiencies are not corrected, the state registrar shall not amend the record and shall advise the applicant of the reason for this action and shall also advise the applicant of the right of appeal to [court of competent jurisdiction].

When a certificate or report is amended under this section, the registrar shall report the amendment to any other custodians of the record and their record shall be amended accordingly.

Section 23. [Reproduction of Vital Records.] To preserve vital records, the registrar is authorized to prepare typewritten, photographic,

3 electronic, or other reproductions of certificates or reports in the [Office of Vital Statistics]. Such reproductions when certified by the state registrar shall be accepted as the original records. The documents from which permanent reproductions have been made and verified may be disposed of as provided by regulation.

Section 24. [Disclosure of Information from Vital Records.]

(a) To protect the integrity of vital records, to ensure their proper use, and to ensure the efficient and proper administration of the system of vital statistics, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital records, or copy or issue a copy of all or part of any such record except as authorized by this act and by regulation or by order of [court of competent jurisdiction]. Regulations adopted under this section shall provide for adequate standards of security and confidentiality of vital records.

(b) The state agency may authorize by regulation the disclosure of information contained in vital records for research purposes.

(c) Appeals from decisions of custodians of vital records, as designated under authority of Section 6(b), who refuse to disclose information, or to permit inspection or copying of records as prescribed by this section and regulations issued hereunder, shall be made to the state registrar whose decisions shall be binding upon such custodians.

(d) When 100 years have elapsed after the date of birth, or 50 years have elapsed after the date of death, marriage, or [divorce, dissolution of marriage, or annulment], the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with regulations which shall provide for the continued safekeeping of the records.

Stols  
off 11/18/82

Section 25. [Copies or Data from the System of Vital Statistics.] In accordance with Section 24 and the regulations adopted pursuant thereto:

(1) The state registrar [and other custodian(s) of vital records authorized by the state registrar to issue certified copies] shall upon receipt of a written application issue a certified copy of a vital record in his or her custody or a part thereof to any applicant having a direct and tangible interest in the vital record. Each copy issued shall show the date of registration and copies issued from records marked "Delayed" or "Amended" shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the state shall be provided or approved by the state registrar.

(2) A certified copy of a vital record or any part thereof, issued in accordance with Section 25(1), shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein.

HB 91

"Vital statistics" refers to records of birth, death, fetal death, marriage, divorce, adoption and related data. With specific exceptions, vital statistics are not available for inspection.

The language of HB 91, taken from the 'Model State Vital Statistics Act' published by the Public Health Service, opens records to the public: birth records - 100 years after date of birth; and marriage, death, divorce, dissolution of marriage or annulment records - after 50 years.

Passage of HB 91 will make public approximately 33,000 of the 675,000 records held by the State Registrar of Vital Statistics. The bill addresses the concerns of genealogical researchers. A zero fiscal note is attached to the bill. Committee of next referral is the Judiciary Committee.

Dave Palmer  
March 4, 1983