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Offered: 4/3/85  
Referred: Judiciary and  
Finance

Original sponsor: Health, Education and  
Social Services Committee

1 IN THE HOUSE BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 308 (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 AS 12.62.035(e)(1) is repealed and reenacted to read: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, custodial interference, incest, indecent  
28 exposure, robbery, arson, endangering the welfare of a minor,  
29 contributing to the delinquency of a minor, distribution of child

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

6        \* Sec. 3. AS 12.62.035(e)(2) is amended to read:

7                (2) "interested person" means a corporation, company,  
8        partnership, firm, association, organization, business trust, or  
9        society, as well as a natural person, that employs, enters into a  
10       contract with, or solicits the employment of a person to serve with or  
11       without compensation in a position in which the person has or would  
12       have supervisory or disciplinary power over a minor;

13       \* Sec. 4. AS 12.62.035 is amended by adding a new subsection to read:

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

19       \* Sec. 5. AS 25.23.100(d) is amended to read:

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

29       \* Sec. 6. AS 47.35 is amended by adding a new section to read:

1           Sec. 47.35.058. INVESTIGATIONS OF PROSPECTIVE FOSTER HOMES. The  
2           department shall request from the Department of Public Safety and pay  
3           the cost of a state and national criminal record check on each adult  
4           residing in a home before that home may be licensed as a foster home.  
5           \* Sec. 7. This Act takes effect immediately in accordance with AS 01.-  
6           10.070(c).

# STATE OF ALASKA THE LEGISLATURE

## LEGISLATIVE AFFAIRS AGENCY

### LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3000

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	5/6/86	1:30 pm
" "	5/10/86	8:00 AM
" "	5/10/86	2:00 pm
" "	5/10/86	7:30 pm

**DRAFT**

# \_\_\_\_\_

DATE: \_\_\_\_\_

BOOKPROOFED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE \_\_\_\_\_

2 \_\_\_\_\_ BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "

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

8 \* Section 1. AS 12.62.035(e)(2) is amended to read:

9 (2) "interested person" means a corporation, company,  
0 partnership, firm, association, organization, business trust, or  
1 society, as well as a natural person, that employs or solicits the  
2 employment of a person to serve with or without compensation in a  
3 position in which the person has or would have supervisory or  
4 disciplinary power over a minor or the Alaska Department of Education  
5 for the purpose of investigating the background of applicants for  
6 teacher certificates under AS 14.20.020 and regulations adopted under  
7 it;

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9  
0  
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3  
4  
5

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No.: HCS CSSB 21 (HESS)  
 Title: "An Act relating to criminal background checks; and providing for an effective date."  
 Sponsor: Senator Ferguson  
 Requestor: House Judiciary  
 Date of Request: 4/28/86

**FISCAL DETAIL**

Agency Affected: Public Safety  
 BRU: DPS Administration  
 Components: Laboratory

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		71.3	74.9	78.6	82.5	86.7
TRAVEL		1.6	1.7	1.8	1.9	2.0
CONTRACTUAL		6.7	7.0	7.4	7.8	8.2
SUPPLIES		3.7	3.9	4.1	4.3	4.5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>83.3</b>	<b>87.5</b>	<b>91.9</b>	<b>96.5</b>	<b>101.4</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		83.3	87.5	91.9	96.5	101.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>83.3</b>	<b>87.5</b>	<b>91.9</b>	<b>96.5</b>	<b>101.4</b>

**POSITIONS :**

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by: Kathy Niles, Admin Assistant  
 Division: Commissioner's Office

Phone: 465-4336  
 Date: 4/28/86

Approved by Commissioner: [Signature]  
 Agency: Public Safety

Date: 4/28/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

**CONTINUATION of FISCAL NOTE ANALYSIS**

For Bill/Resolution No. HCS CSSB 21 (HESS)

<u>100 Personal Services</u>		\$71.3
Both positions to work swing shift		
Latent Fingerprint Examiner I (Range 15A)	\$42.2	
Clerk-Typist III (Range 8B)	29.1	
<u>200 Travel</u>		1.6
Travel for training to keep current in fingerprint technique		
<u>300 Contractual Services</u>		6.7
Postage, telephone	3.6	
Printing of fingerprint cards	2.6	
Training fees	.5	
<u>400 Supplies and Materials</u>		3.7
Supplies for computerized fingerprint system	2.1	
Office & library supplies	1.6	
	TOTAL	\$83.3

An effective date of July 1, 1986 is assumed.

A 5% annual inflation factor is included beginning in FY 88.

Position Title **Latent Fingerprint Examiner** No. of Positions **1** Range/Step **15/A** Barg. Unit **G** Gov.  Approv.  Disapp.

Time Status **PFT** Staff Months **12** RP Number

Location **Anchorage** Election District  Lcg.

Type of Expenditure		Amount
1	2	3
Salary \$2518/mo	30,216	
Benefits	10,865	
Premium Pay + 3.75%	1,133	
Other		
<b>Total Personal Services</b>	<b>42,214</b>	
Travel	1,600	
Contractual	4,400	
Commodities	2,700	
Equipment		
Other		
<b>Total Cost</b>	<b>50,914</b>	

Justification

An additional fingerprint examiner will be necessary to run print comparisons required under the proposed legislation. The individual will load the cards into the fingerprint system, edit computerized print minutiae and run comparison checks against possible aliases, etc.

This additional workload can be absorbed by current staffing and, in this position is budgeted to work swing shift originally anticipated running 75 ten-print cards and 35 latent prints through the system daily. Currently, more than 100 ten-print cards and over 35 latent prints are being processed each day.

Receipt Code	Funding Source	Amount
	Federal Receipts 1002	
	G. F. Match 1003	
	General Funds 1004	50,914
	I-A Receipts 1005	
	Program Receipts 1028	
	CIP Receipts 1061	
	Other	

For B&M Use Only  
Key Number \_\_\_\_\_

Position Title <b>Clerk Typist III</b>			No. of Positions <b>1</b>	Range/Step <b>8/B</b>	Barg. Unit <b>G</b>	Gov.	Approv.	Disapp.
Time Status	Staff Months <b>12</b>	RP Number	Location <b>Anchorage</b>	Election District		Leg.		
Type of Expenditure			Justification					
Amount			<p>This position would provide clerical support for background checks. Duties would include correspondence with employers or individuals concerned, accessing of original fingerprint cards on file and refiling, return of cards to applicants, maintaining tickler files and preliminary checks on the Alaska Public Safety Information Network.</p> <p>The additional clerical workload which would result from passage of SCR 3 cannot be absorbed by the two existing clerical positions in the Lab.</p> <p>This position will work closely with a requested Latent Fingerprint Examiner and is budgeted at the swing shift rate.</p>					
1	2	3						
Salary \$1678/mo	20,136							
Benefits	8,250							
Premium Pay +3.75%	755							
Other								
Total Personal Services		29,141						
Travel								
Contractual		2,300						
Commodities		1,000						
Equipment								
Other								
Total Cost		32,441						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003		32,441					
	General Funds 1004							
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only								
Key Number _____								

**Request For  
New Position**

Agency Department of Public Safety  
 BRU DPS Administration  
 Component Laboratory

Page 4 of 4  
 Revised Date \_\_\_\_\_

**FY 87**

DEPARTMENT OF PUBLIC SAFETY  
POSITION PAPER - HCS CSSB 21 (HESS)

SUPPORT

April 28, 1986

HCS CSSB 21 (HESS) - An Act relating to criminal background checks; and providing for an effective date.

The Department of Public Safety supports background checks as specified in this bill.

At present, we are exceeding our projected workload for personnel in our fingerprint identification center. Our projections from four years ago indicated a maximum input level of 35 latents and 75 ten print cards per day. We are presently receiving more than 75 criminal cards daily.

With our present backgrounds which are required, plus the applicant cards for school teachers and others supervising children, we are unable to keep up with the workload in a timely manner. This unit must be able to provide timely service to Health and Social Services as well as other employees. Criminal cases take priority over the applicant and background checks.

We propose hiring a clerk and an AAFIS operator to work swing shift. Their primary responsibility will be checks required by this bill.

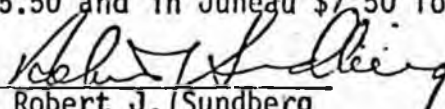
Each request must be handled several times. We would first complete a background check based on name and demographics. The requester would be notified of our preliminary findings. After receiving the cards, we would: 1. Acknowledge receipt; 2. Send one card to the FBI with the required funds. The card would be run through AAFIS to verify the person's identity. If different than on the card, a second computer check would have to be accomplished.

After the information is received from the FBI, correspondence would have to be sent to the requesting person or agency. Tickler files would have to be established and maintained to insure backgrounds are done and to avoid duplication.

This bill does not address who is responsible for rolling the prints. We assume it is the applicants responsibility.

Private firms are presently available in Anchorage and Juneau to perform this service. I'm certain that other security firms in other cities would be also interested in providing this service.

The cost in Anchorage is \$5.50 and in Juneau \$7.50 for this service.

  
Robert J. Sundberg

POSITION PAPER

House CS for CS for Senate Bill 21 (House Judiciary)

This bill relates to criminal background checks of persons having supervisory or disciplinary power over children or dependent adults.

Presently AS 12.62.035 authorizes the release of certain criminal conviction records for persons who hold, or are applying for, paid or volunteer positions which would give them supervisory or disciplinary power over a child. This bill expands the type of convictions that may be reported to include additional crimes that might pose a risk to children. The bill also allows the state to inform an inquiring employer if there is a pending warrant for the arrest of the employee or potential employee.

The House CS would not only expand the protection of children, it would also expand the protection of dependent adults from potentially abusive situations.

The House CS mandates that a criminal history background check cannot be initiated without the written consent of the individual who is subject to the search. Also, once the criminal background check is completed, the employer and the individual will be provided a copy of the criminal record. This is sound practice in line with Federal requirements.

This bill contains the essential elements that were in the original Governor's bill (HR88) and so has the continuing support of the administration.

The department urges passage of this bill which will provide employers, who supervise the care of children and dependent adults, the ability to obtain criminal history background checks for all relevant crimes on their employees.

RECOMMENDED:

Michael L. Priebe  
Michael L. Priebe, Director  
Division of Family  
and Youth Services

DATE:

May 2, 1986

APPROVED:

John R. Pugh  
John R. Pugh, Commissioner  
Department of Health  
and Social Services

DATE:

5/5/86

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

REQUEST House CS FOR CS FOR Senate Bill FISCAL DETAIL

Bill/Resolution No.: No. 21 (HESS) Work Draft #2

Agency Affected: Health & Social Services

Title: An Act relating to criminal background checks.

BRU: \_\_\_\_\_

Sponsor: Ferguson, Kelly, Feiks, et al

Components: \_\_\_\_\_

Requestor: \_\_\_\_\_

Date of Request: 4/18/86

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS		-0-	-0-	-0-	-0-	-0-
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-

CAPITAL		-0-	-0-	-0-	-0-	-0-
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REVENUE		-0-	-0-	-0-	-0-	-0-
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		-0-	-0-	-0-	-0-	-0-

**POSITIONS :**

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

**ANALYSIS :** Attach a separate page if necessary

n/a

Prepared by: Michael L. Price, Director

Phone: 465-3170

Division: Family and Youth Services

Date: 4/18/86

Approved by Commissioner: John R. Pugh

Date: 5/5/86

Agency: Health and Social Services

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST                      DRAFT

Bill/Resolution No. : HCS CSSB 21 (HESS)  
 Title : "An Act relating to criminal background checks; and providing for an effective date."  
 Sponsor : Senator Ferguson  
 Requestor : House HESS  
 Date of Request : 4/17/86

FISCAL DETAIL

Agency Affected : Public Safety  
 BRU : DPS Administration

Components : Laboratory

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		71.3	74.9	78.6	82.5	86.7
TRAVEL		1.6	1.7	1.8	1.9	2.0
CONTRACTUAL		6.7	7.0	7.4	7.9	8.2
SUPPLIES		3.7	3.9	4.1	4.3	4.5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>83.3</b>	<b>87.5</b>	<b>91.9</b>	<b>96.5</b>	<b>101.4</b>

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

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

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		83.3	87.5	91.9	96.5	101.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>83.3</b>	<b>87.5</b>	<b>91.9</b>	<b>96.5</b>	<b>101.4</b>

**POSITIONS :**

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS :    Attach a separate page if necessary

Prepared by : Kathy Miles    Kathy Miles, Admin Assistant    Phone : 465-4336  
 Division : Commissioner's Office    Date : 4/17/86

Approved by Commissioner : [Signature]    Date : 4/17/85  
 Agency : Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. DRAFT HCS CSSB 21 (HESS)

<u>100 Personal Services</u>	--		\$71.3
Both positions to work swing shift			
Latent Fingerprint Examiner I (Range 15A)		\$42.2	
Clerk-Typist III (Range 8B)		29.1	
<u>200 Travel</u>			1.6
Travel for training to keep current in fingerprint technique			
<u>300 Contractual Services</u>			6.7
Postage, telephone		3.6	
Printing of fingerprint cards		2.6	
Training fees		.5	
<u>400 Supplies and Materials</u>			3.7
Supplies for computerized fingerprint system		2.1	
Office & library supplies		1.6	
		TOTAL	\$83.3

An effective date of July 1, 1986 is assumed.

A 5% annual inflation factor is included beginning in FY 88.

Position Title <b>Latent Fingerprint Examiner</b>			No. of Positions	Range/Step 15/A	Barg. Unit G	Gov.	Approv.	Disapp
Time Status PFT	Staff Months 12	RP Number	Location Anchorage		Election District	Leg.		
Type of Expenditure			Justification					
			An additional fingerprint examiner will be necessary to run print comparisons required under the proposed legislation. The individual will load the cards into the fingerprint system, edit computerized print minutiae and run comparison checks against possible aliases, etc.					
			This additional workload cannot be absorbed by current staffing and, in fact, this position is budgeted to work swing shift. We originally anticipated running 75 ten-print cards and 35 latent prints through the system daily. Currently, more than 100 ten-print cards and over 35 latent prints are being processed each day.					
Amount								
1	2	3						
Salary \$2518/mo	30,216							
Benefits	10,865							
Premium Pay + 3.75%	1,133							
Other								
Total Personal Services		42,214						
Travel		1,600						
Contractual		4,400						
Commodities		2,700						
Equipment								
Other								
Total Cost		50,914						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004	50,000					
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
For B&M Use Only								
Key Number								

**Request For  
New Position**

Agency Department of Public Safety  
 BRU DPS Administration  
 Component Laboratory

Page 3 of 4  
 Revised Date

**FY 87**

Position Title <b>Clerk Typist III</b>			No. of Positions 1	Range/Step 8/B	Barg. Unit G	Gov.	Approv.	Disapp.	
Time Status	Staff Months 12	RP Number	Location Anchorage		Election District	Leg.			
Type of Expenditure			Justification						
1	2	3	<p>This position would provide clerical support for background checks. Duties would include correspondence with employers or individuals concerned, accessing of original fingerprint cards on file and refiling, return of cards to applicants, maintaining tickler files and preliminary checks on the Alaska Public Safety Information Network.</p> <p>The additional clerical workload which would result from passage of SCR 3 cannot be absorbed by the two existing clerical positions in the Lab.</p> <p>This position will work closely with a requested Latent Fingerprint Examiner and is budgeted at the swing shift rate.</p>						
Salary \$1678/mo	20,136								
Benefits	8,250								
Premium Pay +3.75%	755								
Other									
Total Personal Services		29,141							
Travel									
Contractual		2,300							
Commodities		1,000							
Equipment									
Other									
Total Cost		32,441							
Receipt Code	Funding Source								
	Federal Receipts	1002							
	G. F. Match	1003							32,441
	General Funds	1004							
	I-A Receipts	1005							
	Program Receipts	1028							
	CIP Receipts	1061							
	Other								
For B&M Use Only Key Number _____									

**Request For  
New Position**

Agency Department of Public Safety  
 BRU DPS Administration  
 Component Laboratory

Page 4 of 4  
 Revised Date \_\_\_\_\_

**FY 87**

DEPARTMENT OF PUBLIC SAFETY  
POSITION PAPER - DRAFT HCS CSSB 21 (HESS)

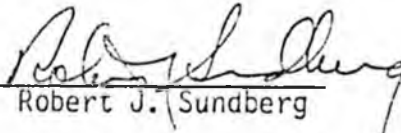
SUPPORT

April 17, 1986

HCSCSSB 21 (HESS) - An Act relating to criminal background checks; and providing for an effective date.

The main intent of this bill is for the Commission of Criminal Justice to be the agency where persons may request records. The Commission is presently non-existent and therefore, inactive. There would be no office that a person could correspond with if a request was made for records of an individual applying for a position.

Presently, all state criminal records are contained in the Department of Public Safety and the Department would be the originating agent in requesting federal checks to comply with the intent of the proposed legislation. Probably this arrangement should continue.

  
Robert J. Sundberg

# COMMITTEE REPORT

## HOUSE

JUDICIARY

(7)

FURTHER: FINANCE

5/11/85

Date: 5/11/85

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had CSB 21 (HESS)

"An Act relating to criminal background checks; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for CSB 21 (HESS)  same title  
 new title
- and recommends to pass
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]  
CHAIRMAN

MEMORANDUM

TO: HOUSE HESS COMMITTEE

FROM: NANCY BENNETT, COMMITTEE STAFF

DATE: APRIL 17, 1986

RE: HCS FOR CSSB 21 (HESS) - CRIMINAL HISTORY  
BACKGROUND CHECKS.

You have a draft Committee Substitute before you which is very similar to the provisions of HB 308, which the HESS Committee introduced and passed last year. The bill is essentially the same as portions of HB 88, introduced by the Governor last year.

The bill draft solves several problems:

1. Deals with the immediate problem on background checks by expanding the list of crimes which can be released for a criminal history background check. You may recall testimony from last year that persons checked for school district hire have sometimes turned up with records of murder or prostitution - and that information may not be released at this time.
2. Allows release of information on outstanding warrants.
3. Includes dependent adults in the definition so that state grantees for adult protective services (developmentally disabled, mentally retarded and mentally ill) will be able to request background checks on employees. This was added at the request of Protection and Advocacy for the Developmentally Disabled (P.A.D.D.), who has received complaints from non-profit organizations providing services to dependent adults who cannot request checks under the existing statute because it is limited to people working with minors. These agencies have been told they can reduce their insurance premiums by completing these checks. The Department of Health and Social Services agrees that dependent adults are particularly susceptible to abuse and assault.
4. The fiscal impact of this version of the bill should be much less than for the Senate passed version because we are not mandating checks for any particular group.

BILL SHEFFIELD, GOVERNOR

**DEPT. OF HEALTH AND SOCIAL SERVICES**

POUCH H-05  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3170

*DIVISION OF FAMILY AND YOUTH SERVICES*

October 31, 1985

The Honorable M. Mike Miller  
Alaska State House  
House Judiciary  
Room 122  
Pouch V  
Juneau, AK 99811

Dear Representative Miller:

Frank Barthel has briefed me on the House Judiciary Committee hearing on October 24, 1985 in Anchorage. I would have responded to the committee's questions sooner; however, I just returned to the office this week.

Presently when criminal history clearance checks are requested of foster parents and all adult members of the foster home plus administrators of residential facilities, a criminal history consent form signed by the applicant (see attached consent form) is sent to the state (central) office of the Division of Family and Youth Services. A designated state office clerk who has the responsibility of requesting and receiving criminal history information, gives the consent form a log number and logs the date the request was received, the date the consent form was sent to the Department of Public Safety (DPS) for a criminal clearance, and the date DPS responds. If there is no criminal history the original consent form is returned to the licensing worker. If a criminal history is received it is noted in the log book, the licensing worker is called and the charges, date of charges, and disposition of the case is stated over the phone. The consent form is xeroxed, the xeroxed copy plus the criminal history received from DPS is filed in the state office and the original consent form is mailed to the licensing worker. License workers, who review criminal history clearances, are trained and procedures are in place for confidentiality of records. Frank Barthel has been receiving a copy of the criminal history information. However, in order to have only one copy in our office the designated criminal history clerk will keep all criminal history records in a locked filing cabinet. Security of criminal history records is a concern of the division. Except for a few cases, (for example recently an applicant had three pages of criminal activity), the actual criminal record is not sent to the field workers.

On the division's consent form it is stated that one is not automatically denied a license because of a criminal record. Once a licensing worker receives word that an applicant has a criminal history the worker must examine the nature of the offenses, the number of offenses and when the

offenses occurred. The licensing worker will discuss the criminal history with the applicant and if the applicant has a probation officer, ask the latter his/her's assessment of the applicant. If the worker and the supervisor feel that an applicant has rehabilitated himself and is no longer a threat, a license may be issued. On the other hand if the record indicates potential risk to children the applicant is encouraged to reconsider applying for a foster home license or to resubmit a license application once the threat is no longer in the home. In some cases, once a person is asked to complete a criminal history consent form they either decline or they take the consent form home and never complete their application. If an applicant, who is a potential risk to children, proceeds with his application the licensing worker would hold further consultation with the worker's supervisor and possibly the regional manager. If denial of a license is agreed upon often the Department of Law is also consulted.

As for the expungement of records, the division would in many cases have no problem with destroying our copies of criminal history records once those records were, by statute, officially expunged. However, in some cases the division should maintain the records because the division's primary responsibility is the safety of children. For example, last year a child was sexually abused by a husband of an operator of a family child care home. The husband had been convicted and jailed for sexually abusing a child in another state. However, that particular state had a policy of expunging a criminal record if a convicted criminal demonstrated proper behavior for a specific length of time. The division learned of the husband's past criminal behavior, but was advised that a license could not be denied to the wife because officially the husband's criminal sexual abuse record did not exist. As a result, a young child suffered harm and the state was sued. Hence, if the division learns that an individual has the potential of sexually or physically abusing children that information should be kept on file. Should that individual apply for a foster home license or live in a home of a person applying for a foster home license the licensing worker would deny the applicant a license or devise a protection plan where the person has no contact with children.

As for day care operators, according to the DPS less than five child (day) care centers have requested criminal history checks under AS 12.62.035 in little over a year. The number of requests may increase, however, as the new child care facilities' regulations (7 AAC 50.120 - 7 AAC 50.275) go into effect. Under 7 AAC 50.225 (g) an individual may not be employed if the individual "has been convicted of a crime of violence or moral turpitude within the previous 10 years." Furthermore, the city of Soldotna is considering adopting an ordinance requiring criminal history clearances for employees of child care centers. Should other municipalities pass similar ordinances, there would be an increase in criminal history clearance requests. According to DPS, once they receive a the criminal history sheet they screen the criminal information and release the pertinent information allowable under AS 12.62.035. The child care operator must destroy the criminal history records six months after they receive the criminal information. No guidelines have been established as to how to

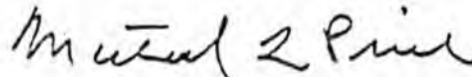
October 31, 1985

secure the records during the six month hold period; however, if the records are improperly used, the child care operator could be sued (see AS 12.62.060). Furthermore, DPS stamps the criminal history request form with the statement that the criminal history is confidential and misuse can result in a fine or imprisonment.

Except for sole proprietor, the board of directors does an employment check on all child care operators. The operator must furnish references which are then checked. Furthermore, the board of the child care center can, as an employer, request a AS 12.62.035 criminal history clearance on the administrator. The board would be subject to the same rules of confidentiality. The division does the employment check on a sole proprietor.

The division recognizes and agrees with the House Judiciary Committee's concern about the proliferation and confidentiality of criminal history records. The division trains and does everything within its power to protect these records. By statute and regulations, the child care operators must also maintain the records in a confidential matter or suffer the consequences.

Sincerely,



Michael L. Price  
Director

MLP/FB/sa

Enclosures

cc: Hayden Kaden

Connie J. Sipe  
Deputy Commissioner

Norma Lang  
Special Assistant to the Commissioner

Pat O'Brien  
SS Program Officer

LICENSING RECORD CLEARANCE REQUEST  
ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF FAMILY AND YOUTH SERVICES

SS  or YS   
REGION \_\_\_\_\_  
Worker \_\_\_\_\_  
Field Office or \_\_\_\_\_  
Private Agency \_\_\_\_\_

INSTRUCTIONS: Please read reverse side. Complete a separate request for each applicant and adult household member

APPLICANT/LICENSEE/ADULT HOUSEHOLD MEMBER INFORMATION:

LAST NAME FIRST NAME MIDDLE NAME JR., III, ETC.

ALSO KNOWN AS, ALIASES, MAIDEN NAME, PREVIOUS MARRIED NAME(S)

DATE OF BIRTH SEX SOCIAL SECURITY NUMBER

ADDRESS CITY STATE ZIP CODE

HAVE YOU OR ANY MEMBER OF YOUR HOUSEHOLD EVER BEEN CONVICTED OF A CRIME?  YES  NO  
HAVE YOU OR ANY MEMBER OF YOUR HOUSEHOLD BEEN CHARGED WITH A CRIMINAL OFFENSE?  YES  NO

IF YES, PLEASE EXPLAIN BELOW: (INDICATE TYPE AND DATE OF CONVICTION OR CRIMINAL CHARGE)

HAVE YOU BEEN PREVIOUSLY LICENSED TO CARE FOR A CHILD(REN) OR AN ADULT(S)? IF YES, PLEASE INDICATE LOCATION AND TYPE OF CARE:

HAS THERE EVER BEEN A CASE OF SUBSTANTIATED ABUSE OR NEGLECT IN WHICH YOU OR ANY MEMBER OF YOUR HOUSEHOLD WERE INVOLVED?  YES  NO

I hereby authorize the Alaska Department of Health and Social Services, Division of Family and Youth Services to submit my name and descriptive information to the Alaska Department of Public Safety for a criminal history search. I also certify that the information I have given on this form is, to the best of my ability, true and correct.

SIGNATURE OF APPLICANT/ADULT HOUSEHOLD MEMBER

DATE

RECORDS CLEARANCE: (DIVISION OF FAMILY AND YOUTH SERVICES REGIONAL OFFICE USE ONLY.)

PROTECTIVE SERVICES:  NO  YES (DETERMINATION ATTACHED)

PREVIOUS LICENSE:  NO  YES (LIST NUMBER AND LOCATION)

LAW ENFORCEMENT CLEARANCE:

## LICENSING RECORD CLEARANCE REQUEST

Alaska Statute 47.35.010-030 and regulations for child foster homes, adult foster homes, residential child care facilities, and adult residential care facilities authorize the Division of Family and Youth Services to be satisfied that applicants for a foster home license and administrators of residential facilities are of reputable character, have sound judgement, are free from mental health problems, and are free from serious criminal history. In a foster home all members of the household 18 years or older must also be free of serious problems, including criminal history. If an adult joins a household during licensure, for an anticipated stay exceeding three weeks, a clearance request is to be submitted for that individual. The review of background records assists the Division in making a licensing determination. A failure on the part of an applicant to provide the Division with information and authorization requested on this form may be sufficient cause to deny issuance of a license.

There are two purposes of this form. First, the form will produce a Department of Public Safety check regarding the possible existence of an arrest resulting in a criminal charge and/or a criminal conviction record. Second, the form may produce a Division of Family and Youth Services file check regarding the possible existence of a substantiated child or adult abuse or neglect record. Division files also provide a check against current or previous licensing status of the applicant in the State of Alaska.

The existence of a criminal history record, or a substantiated child or abuse and neglect record does not necessarily disqualify an applicant for licensure. However, it does provide the Division with information which will be carefully evaluated to ensure that the applicant is able to meet licensing requirements.

If a license is denied, a renewal of a license is refused, or a license is revoked based upon a review of the records and a consequent determination of inability to provide adequate or appropriate care to persons being served in the licensed facility, the applicant or licensee will be furnished with a summary of findings on which the decision was made.

Under state statute and regulations child abuse or neglect and criminal history records are confidential with the exception of use in a licensing administrative or court hearing under the Alaska Administrative Procedures Act. This license record clearance form is treated as a confidential part of the licensing file. The Alaska Department of Public Safety affixes the following stamp in red to each form processed:

threat". Co-Chairman Koponen asked Ms. Nelson her opinion. She said she needed further study.

- Number 220 Co-Chairman Gruenberg moved to pass CS 67. There were no objections. Co-Chairman Gruenberg, Co-Chairman Koponen, Rep. Hurley, Rep. Pettyjohn, and Rep. Hanley signed do pass. Rep. Thompson and Rep. Taylor who were not present.
- Number 221 Co-Chairman Koponen announced the committee would hear HB 308. Co-Chairman Gruenberg said for the purpose of discussion, he moved the CS for HB 308. There was not objection.
- Number 230 Pat O'Brien, Dept. of Health and Social Services, Division of Family and Youth Services, testified. She said they had put together a tentative position paper, but they would like to talk to Public Safety. She said H&SS supported passage of the first 4 sections so that persons who employ individuals who supervise children may have access to more than just the sexual criminal abuse history.
- Number 270 Ms. O'Brien said regarding the last two sections dealing with the criminal background checks for persons who will adopt children and applicants for licenses for foster homes. H&SS had considered such a statute in the Governor's package and it was rejected by the Criminal Justice Working Group, an organization consisting of Public Safety, Law, Court System, Corrections, etc., because there are so many problems with fingerprinting and background history.
- Number 290 She discussed the cost of fingerprinting, and the difficulty of getting fingerprinting in a remote setting.
- Number 302 Ms. O'Brien then discussed foster care. She said the agency was very concerned about some of the backgrounds they were finding in their foster homes but the 6% "hit" (discoveries of arrest) were not serious, but that they were running the criminal background checks.
- Number 340 She discussed the need to include family child care homes, and the administrators of day care centers. Rep. Pettyjohn said the

child care is covered to the extent that a parent is allowed, if they are sending a child to a facility where they're being cared for, to inquire into the person who is supervising their child. Ms. O'Brien registered concerns about licenses for foster homes.

Number 374

Co-Chairman Gruenberg said he thought the language was very clear that all you have to do before the home is licensed, is you must make the request and pay the cost. He suggested Ms. O'Brien to prepare a statement to be read on the floor or a Letter of Intent. She said they were uncomfortable with the ~~lawsuits they were getting on~~ licensure of some foster homes.

Number 386

Ms. O'Brien further discussed her concerns about the costs and staffing problems.

Number 441

Rep. Pettyjohn moved to pass CSB 308. There was no objection. Co-Chairman Koponen, Co-Chairman Gruenberg, Rep. Hurlev, Rep. Pettyjohn, and Rep. Hanlev signed do pass. Rep. Taylor and Rep. Thompson who were not present.

Number 445

The meeting was adjourned at 5:45 p.m.

Gruenberg. Those opposed are Representatives Sund, Clocksin, Phillips, and Taylor.

Number 323

Representative Phillips moves that the bill be moved out of committee with individual recommendations. There are no objections.

Number 402

The Chairman announces that the committee will now take up HB 308. Representative Clocksin has problems because many of the sections being amended are the same sections that are being amended by HB 183. It raises the same issues. Asks to take them both up during the interim.

Number 424

Representative Phillips is concerned with daycare centers.

There are no objections so it is put off till the interim. At 10:32 an at ease is called.

At 10:50 the meeting is called back to order. The Chairman talks about HB 38. There is a proposed Judiciary Committee Substitute in front of everyone in which there have been a number of deletions. Most of the controversial portions of the bill have been deleted.

Number 472

On page 1 of the HESS Cs delete everything below line 9. On page 2 section 3 is deleted, sections 4, 5, and 6 are left in. On page 3 sections 7, 8, and 9 are left in. On page 4 everything is left in. On page 5, line 11, have added the phrase "reasonable perceptions of the child that the touching is sexual in nature are relevant to the determination of whether the touching is sexual abuse". Section 12 is left in. Section 13, lines 6 through 19 are left in but changed. "Court investigators" is used and "employees or volunteers" are used. From Lines 20 through 29 on page 6 is deleted. Subsection (c) is deleted on page 7. Section 14 remains. Section 15 is deleted. Section 16 is deleted. Section 17 is deleted. Section 18 is deleted. Section 19 remains. Section 20 remains. Section 21 remains. Section 22 is deleted. Everything else remains except 28, which is deleted.

Number 538

Representative Peter Goll asks the impact of

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPT. OF HEALTH AND SOCIAL SERVICES

POUCH H-05  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3170

### DIVISION OF FAMILY AND YOUTH SERVICES

March 28, 1985

The Honorable Max Gruenberg  
House Hess  
Pouch V  
Juneau, AK 99811

Dear Representative Gruenberg:

This is in follow-up to the testimony of Pat O'Brien on House Bill 308 related to criminal history background checks and the conversation following the meeting between Representative Gruenberg and Ms. O'Brien of my staff.

One concern expressed by Ms. O'Brien during the testimony was that it would not be possible to obtain FBI criminal history clearances on foster home applicants and other adult members of a foster home prior to licensure in emergency child placement situations. A child may need protective placement in a community where no foster home is available. Committee response to the concern was that the law only requires the department to request the criminal history background search, not to receive the results of the search prior to licensure. Representative Gruenberg you offered to issue a letter of legislative intent to this effect.

Representative Gruenberg and Pat O'Brien had a conversation following the meeting regarding the change in definition of an "interested person" in AS 12.62 to include individuals who contract for a service. The committee intent in including this provision was explained as giving parents the opportunity to obtain a criminal history background search on family child care operators and child care center employees. While the approach is innovative and may be the best that can be achieved at this time, it will not in most cases meet the needs of parents to reduce risk to their children in child care settings. Child care is difficult to find, particularly family child care homes. In all likelihood, if a parent asked for a criminal history background search on a family child care home operator, the parent would be told to take their child elsewhere. Second, there are up to six sets of parents utilizing a family child care home and consequently there is a potential for six parents to request a criminal history background search on the same family child care home provider. That number multiplies according to the number of licensed spaces in a child care center. Finally, in a family child care home, it is rarely the applicant caregiver but instead an adult member living in the home who poses the greatest risk to children in care. There is no provision in the law for the other adult members of the household to be subjected to a criminal history clearance.

Representative Max Gruenberg

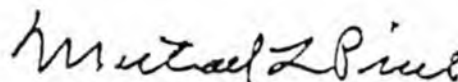
-2-

March 28, 1985

The department appreciates the committee's recognition that most child foster homes serve children in state custody. The provision for payment for FBI criminal history searches in child foster homes will assist the division in obtaining and retaining foster homes. As discussed during and following the hearing, there are a number of serious complexities to implementing an FBI criminal records clearance that will place an additional work load on both the Department of Health and Social Services and the Department of Public Safety. A fiscal note is being prepared.

Thank you for your continuing interest in child protection and reducing risks to child in child care. Please let me know if I may provide any further information.

Sincerely,



Michael L. Price  
Director

MLP:PJOB:paj

SECTIONAL ANALYSIS OF HOUSE BILL 308 - CRIMINAL HISTORY BACKGROUND  
CHECKS; EFD

- SECTION 1 Provides that criminal history background checks on individuals applying for a position working with children will disclose convictions for "crimes that might pose a risk of harm to a child" (HB 88)
- SECTION 2 In the definition of crimes that might pose a risk of harm to a child, the following crimes were removed from the list provided in HB 88: criminal non-support and driving while intoxicated. (HB 88)
- SECTION 3 Adds language to the definition of "interested person" to indicate that a person who enters into a contract with someone to be in a supervisory position with children may request a criminal background check on that person.
- SECTION 4 This section was section 9 in HB 88, the only change being that information on outstanding warrants could be given out only for the crimes listed in Section 2.
- SECTION 5 Amends the adoption statute to require a criminal background check on any person seeking to adopt a child. (Walsh suggestion)
- SECTION 6 Provides for mandatory criminal background checks on Foster parent applicants (for every adult living in the home) both in-state and through the national computer. The cost of the check (estimated at \$20 for state and national) will be born by the department.
- SECTION 7 Immediate effective date.

COMMITTEE REPORT  
HOUSE

(7)

FURTHER: JUDICIARY

3/20/85

Date: 21. March 1985

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 308

"An Act relating to criminal background checks; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 308 (1985)  same title  
 new title
- and recommends do pass
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING

DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING

OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature] co-chair

CHAIRMAN



Alaska State Legislature  
House of Representatives  
COMMITTEE ON HEALTH, EDUCATION  
AND SOCIAL SERVICES

OFFICIAL BUSINESS

PC  
JUNEAU, AK  
465

LETTER OF INTENT

It is the intent of the House Health, Education and Social Services Committee, in passing Committee Substitute for HB 308, that the Revisor of Statutes shall make the appropriate changes in Sections 1 through 3 consistent with HB 183.

Representative Max F. Gruenberg, Jr., Co-Chair

Representative Niilo Koponen, Co-Chair

Representative Robin Taylor, Vice-Chair

Representative Katie Hurley

Representative David Thompson

Representative Robin Taylor

Representative Fritz Pettyjohn

Representative Alyce Hanley

POSITION PAPER

COMMITTEE SUBSTITUTE FOR HOUSE BILL 302 (HESS)

This bill relates to criminal background checks for persons supervising, caring for or adopting children.

Secs. 1, 2 and 3

Existing AS 12.62.035 authorizes the release of certain criminal conviction records for persons who hold, or are applying for, paid or volunteer positions which would give them supervisory or disciplinary power over a child. Sections 1, 2 and 3 of this bill expand the types of convictions that may be reported to include all crimes that might pose a risk to children. Section 3 allows the state to inform an inquiring employer if there is a pending warrant for the arrest of the employee. These three sections contain the essential elements in the bill introduced by the Governor (HB 88) and so have the continuing support of the administration.

Secs. 4 and 5

These sections would require a petitioner for an adoption and an applicant for a child or adult foster home license be subject to a criminal history background search by the Department of Health and Social Services prior to the adoption or, in the case of foster care, prior to license issuance.

The department strongly supports reducing risk to adoptive children, foster children and dependent adults in foster care. There are problems with criminal background checks through the fingerprinting process. The Governor's Criminal Justice Working Group recommended that criminal history background checks for licensee's not be included in the administration's child protection package until some of those procedural and legal problems could be resolved. Concerns expressed include:

- the high cost of fingerprinting; there is a \$12.00 charge for the FBI clearance and an estimated \$8.00 state processing charge. These costs would impact local police departments and the Department of Public Safety;
- logistics costs associated with obtaining fingerprints particularly in remote locations both for the Department of Public Safety and the Department of Health and Social Services;
- the Department of Public Safety has stated that the rejection of unacceptable fingerprints runs as high as 20% causing extensive delays in the process;
- even if the fingerprints are acceptably rolled, up to ten weeks is required for processing for results;

Position Paper  
CS HB 308  
Page 2

- results may be as long as three months out-of-date depending on FBI processing timeframes;
- some professionals have raised civil liberties questions regarding fingerprinting.

Because these issues have been raised, the department wishes to advise the committee of the possible difficulties and hardships of such a new policy.

With regard to criminal history clearance on adoptive homes, there are an estimated 800 non-stepparent adoptions each year. Most of those adoptions are private adoptions handled by attorneys. Only one quarter of all adoptions involve studies by the Department of Health and Social Services or licensed private adoption agencies. Currently the department is not involved in the other 600 private adoptions per year, other than to receive notice from the petitioners under AS 25.23.100 at least 20 days before the hearing. At this point, DHSS has no tracking system on the notices for private adoptions. The department would need to notify attorneys of this new requirement and establish a tracking system to allow time for processing the criminal history background clearances. The proposed statute does not require the court to delay the adoption pending the criminal history background check, consequently many adoptions would be final before receipt of the check results. The 20 day notice period coupled with a ten week processing period should a court desire the results of the FBI records check would delay the adoption proceedings. Finally, the department is not certain that the state can legally release FBI records to the court or adoptive parties under federal regulations. The Department of Public Safety should be consulted on confidentiality provisions.

Presently, the Division of Family and Youth Services within the department requires a criminal history background check to be completed by all applicants for a foster home license and all adult members of a foster home household. This is a state, not an FBI, criminal history records clearance. The authority for the department is contained in AS 12.62.010, AS 12.62.030, and 6 AAC 60.070(c). Under this authority the Division of Family and Youth Services has a users agreement to access state criminal history background checks based on name, social security number and birthdate rather than fingerprinting. Sec. 5 of this bill would not withdraw the department's current ability to do state criminal history background checks, but would require that a new system of fingerprinting and obtaining FBI record checks be utilized prior to licensure issuance. Presently the department is receiving criminal history hits on approximately 6% of all the applicants and adults residing in foster home. Most criminal history information obtained on applicants does not pose a substantial risk to children. The criminal histories give department personnel an opportunity to discuss the circumstances and rehabilitation following a violation. For example, there may be an adult son in the home with substantial numbers.

Position Paper  
CS HB 308  
Page 3

of violations. In these cases the criminal history background checks allow the department an opportunity to counsel those persons out of applying for foster care until the son is no longer residing in the home. In only two cases has a license been denied based on criminal history background findings. Current processing under the state system runs up to 30 days.

The department currently issues provisional licenses prior to obtaining criminal history background checks because of emergency situations where a child must be placed before the licensing study can be completed. In these cases references are obtained, a visit is made to the home and a signed application is completed but there is no time for a criminal history clearance. When a child has been removed from an unsafe home and there is no licensed foster home available to take that child, issuance of a license under an emergency condition is appropriate. The department would need to continue that practice pending FBI criminal history clearances.

Recommendations

The department urges passage of Secs. 1, 2 and 3 of this bill to provide ability of employers supervising children to obtain criminal history background checks on their employees. The costs of Secs. 4 and 5 of the bill are not in the Governor's proposed FY 86 budget.

RECOMMENDED:

Michael L. Price  
Michael L. Price, Director  
Division of Family  
and Youth Services

DATE:

March 28, 1985

APPROVED:

John R. Pugn  
John R. Pugn, Commissioner  
Department of Health  
and Social Services

DATE:

4/1/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 3/28/85

REQUEST

Bill/Resolution No.: CS HB No. 308  
 Title: An Act relating to back-ground checks  
 Sponsor: HESS  
 Requestor: \_\_\_\_\_  
 Date of Request: 3/26/85

FISCAL DETAIL

Agency Affected: Health and Social Service  
 Program Category Affected: Social Services  
 BRU, Program or Subprogram(s) Affected: BRU, Program or Subprogram(s) Affected: Social Services BRU - Southcentral, Northern and Central Office Components

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FI 85	FI 86	FI 87	FI 88	FI 89	FI 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		76.1	79.1	82.3	85.0	89.0
200 TRAVEL		6.6	6.9	7.1	7.4	7.7
300 CONTRACTUAL		37.4	29.1	30.3	31.5	32.7
400 SUPPLIES		1.2	1.3	1.3	1.4	1.4
500 EQUIPMENT		6.7				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>128.0</b>	<b>116.4</b>	<b>121.0</b>	<b>125.9</b>	<b>130.8</b>
<b>CAPITAL</b>		<b>-0-</b>				
<b>REVENUE</b>		<b>-0-</b>				

FUNDING: (Thousands of Dollars)

GENERAL FUNDS		128.0	116.4	121.0	125.9	130.8
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>128.0</b>	<b>116.4</b>	<b>121.0</b>	<b>125.9</b>	<b>130.8</b>

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME		2	2	2	2	2
TEMPORARY		-0-				

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: Michael L. Price *Michael Price* Phone: 465-3170  
 Division: Family and Youth Services Date: 3/28/85

Approved by Commissioner: John Dyer *John Dyer* Date: 4/1/85 *JCC*  
 Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget

IV. ANALYSIS

A. Assumptions

This legislation would require the department to implement FBI criminal record checks which include fingerprinting for adoptive parents and foster home license applicants and all adult members of a foster home. Because no system exists for this process and because there are numerous legal and logistics problems in implementing it, a full time professional position, Social Worker IV, will be required in the Central Office to work closely with the Department of Public Safety, division field offices, private adoption agencies and the Alaska Bar Association to secure implementation. In addition there will need to be extensive work with the Department of Law regarding confidentiality provisions and potential litigation. There are currently 1,016 child and adult foster homes with an average of 2.3 adults in each home. Public Safety has advised that we process clearances at each biennial licensure evaluation. With a 15% turnover rate this will result in 1,725 clearances in foster homes per year at \$20 per clearance. (\$12.50 FBI processing) (\$7.50 for contracted state processing). The 800 new adoptions per year x 2 adults will not require fingerprint processing charges. There will be a handling burden on offices in Fairbanks and Anchorage, requiring two permanent part-time positions, Clerk Typist III's, in those offices.

B. Program Summary

New positions required by this legislation will be as follows:

Social Worker IV in Juneau;  
 Clerk Typist III, permanent part-time, one each in Anchorage and Fairbanks

C. Computations

Personal Services - Social Worker IV	\$ 48.3
Clerk Typist III	27.3
Travel	6.6
Contractual	37.4

1,016 x 15% divided by 2 x 2.3 =		
1,344 x \$20.00	=	\$26,880
Space Expense for S.W.		4,950
Space Expense for CT	2,250 x 2 =	4,500
General Contractual		1,100
		\$37,430

Supplies	1.2
Equipment - first year only	6.7
	\$128.0

Note: For successive fiscal years, space would be budgeted by Department of Administration. Computations for successive fiscal years at 4%.

D. Economic Impact

There will be no impact on the State economy.

E. Impact On Local Governments

There will be an economic impact on some local police departments.



1.	POSITION TITLE Clerk Typist III			RANG./STEP 8A	ORG. UNIT GGU	PAGE/LINE	CONV.	APPROV.	DISAP.
2.	TYPE OF POSITION PTP	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	ORG PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT	Personal Services calculations based on PAC'S.  Calculations for Contractual, Supplies and Equipment based on FY 86 Budget submission.				
	PERSONAL SERVICES								
5.	Salary		9.8						
6.	Benefits		2.6						
7.	Supplemental Benef								
8.	Fixed Benefits								
9.	TOTAL PERSONAL SERVICES	01	12.4						
10.	Travel	02	-0-						
11.	Contractual	03	2.6						
12.	Commodities	04	.4						
13.	Equipment	05	2.6						
14.	Other								
15.	TOTAL COST		18.0						
16.	RECEIPT CODE	FUNDING SOURCE							
17.		Federal Receipts	1002						
18.		C.F. Hatch	1003						
19.		General Funds	1004	18.0					
20.		I-A Receipts	1005						
21.		Program Receipts	1020						
		Other							
FOR BSH USE ONLY KEY NUMBER _____									

REQUEST FOR  
NEW POSITION

AGENCY Health and Social Services  
Social and Economic Assistance  
 PROGRAM for the General Population  
 BRU Social Services  
 COMPONENT Southcentral Region

Page 2 of 3  
 Revised Date \_\_\_\_\_

FY 86

1.	POSITION TITLE Clerk Typist III			RANGE/STEP 8A	BARG. UNIT CCSU	PAGE/LINE	COV.	APPROV.	DISABT.
2.	TYPE OF POSITION TPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	RRR PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.	
3.	CONFIRMATION LEVEL	ADDITION			LOCATION				
4.	TYPE OF EXPENDITURE			AMOUNT	Personal Services calculation based on PAC'S.  Calculations for Contractual, Supplies and Equipment based on FY 86 Budget submission.				
	PERSONAL SERVICES								
5.	Salary	11.0							
6.	Benefits	3.9							
7.	Supplemental Benefits								
8.	Fixed Benefits								
9.	TOTAL PERSONAL SERVICES	01		14.9					
10.	Travel	02		-0-					
11.	Contractual	03		2.6					
12.	Commodities	04		.4					
13.	Equipment	05		2.6					
14.	Other								
15.	TOTAL COST			20.5					
16.	RECEIPT CODE	FUNDING SOURCE							
17.		Federal Receipts	1002						
18.		G.F. Hatch	1003						
19.		General Funds	1004	20.5					
20.		I-A Receipts	1005						
21.		Program Receipts	1028						
		Other							
FOR BAH USE ONLY									
KEY NUMBER _____									

REQUEST FOR  
NEW POSITION

AGENCY Health and Social Services  
Social and Economic Assistance  
 PROGRAM for the General Population  
 BRU Social Services  
 COMPONENT Northern Region

Page 3 of 3  
 Revised Date \_\_\_\_\_

FY 86

POSITION PAPER

COMMITTEE SUBSTITUTE for SENATE BILL 21 (HESS)

This bill relates to criminal background checks for persons supervising, caring for or adopting children.

Secs. 1, 2 and 3

Existing AS 12.62.035 authorizes the release of certain criminal conviction records for persons who hold, or are applying for, paid or volunteer positions which would give them supervisory or disciplinary power over a child. Sections 1, 2 and 3 of this bill expand the types of convictions that may be reported to include all crimes that might pose a risk to children. Section 3 allows the state to inform an inquiring employer if there is a pending warrant for the arrest of the employee. These three sections contain the essential elements in the bill introduced by the Governor (HB 88) and so have the continuing support of the administration.

Secs. 4 and 5

Section 4 would require a criminal history background search on all petitioners for adoption.

Section 5 would require a criminal history background search on an applicant for a facility license, as defined in AS 47.35, or for facility employment. Either the Department of Health and Social Services or the facility would request the criminal clearance prior to license issuance or employment on a permanent status.

The department strongly supports reducing risk to adoptive children, foster children, children in child care facilities and dependent adults in foster care. There are problems with criminal background checks through the fingerprinting process. The Governor's Criminal Justice Working Group recommended that criminal history background checks for licensee's not be included in the administration's child protection package until some of those procedural and legal problems could be resolved. Concerns expressed include:

- the high cost of fingerprinting; there is a \$12.00 charge for the FBI clearance and an estimated \$8.00 state processing charge. These costs would impact local police departments and the Department of Public Safety;
- logistics costs associated with obtaining fingerprints particularly in remote locations both for the Department of Public Safety and the Department of Health and Social Services;

Position Paper  
CS SB 21  
Page 2

- the Department of Public Safety has stated that the rejection of unacceptable fingerprints runs as high as 40% causing extensive delays in the process;
- even if the fingerprints are acceptably rolled, up to ten weeks is required for processing for results;
- results may be as long as three months out-of-date depending on FBI processing timeframes;
- some professionals have raised civil liberties questions regarding fingerprinting.

With regard to criminal history clearance on adoptive homes, there are an estimated 800 non-stepparent adoptions each year. Most of those adoptions are private adoptions handled by attorneys. Only one quarter of all adoptions involve studies by the Department of Health and Social Services or licensed private adoption agencies. Currently the department is not involved in the other 600 private adoptions per year, other than to receive notice from the petitioners under AS 25.23.100 at least 20 days before the hearing. At this point, DHSS has no tracking system on the notices for private adoptions. The department would need to notify attorneys of this new requirement and establish a tracking system to allow time for processing the criminal history background clearances. The proposed statute does not require the court to delay the adoption pending the criminal history background check, consequently many adoptions would be final before receipt of the check results. The 20 day notice period coupled with a ten week processing period should a court desire the results of the FBI records check would delay the adoption proceedings. Finally, the department is not certain that the state can legally release FBI records to the court or adoptive parties under federal regulations. The Department of Public Safety should be consulted on confidentiality provisions.

Presently, the Division of Family and Youth Services within the department requires a criminal history background check to be completed by all applicants for a foster home license and all adult members of a foster home household. This is a state, not an FBI, criminal history records clearance. The authority for the department is contained in AS 12.62.010, AS 12.62.030, and 6 AAC 60.070(c). Under this authority the Division of Family and Youth Services has a users agreement to access state criminal history background checks based on name, social security number and birthdate rather than fingerprinting. Sec. 5 of this bill would not withdraw the department's current ability to do state criminal history background checks, but would require that a new system of fingerprinting and obtaining FBI record checks be utilized prior to licensure issuance. Presently the department is receiving criminal history hits on approximately 6% of all the applicants and adults residing in foster home. Most criminal history information obtained on applicants does not pose a substantial risk to children.

The criminal histories give department personnel an opportunity to discuss the circumstances and rehabilitation following a violation. For example, there may be an adult son in the home with substantial numbers of violations. In these cases the criminal history background checks allow the department an opportunity to counsel those persons out of applying for foster care until the son is no longer residing in the home. In only two cases has a license been denied based on criminal history background findings. Current processing for the state system runs up to 30 days.

At Senate HESS request the department has drafted a criminal records background clearance section under AS 47.35 to include child care facilities. The new draft would continue the department's practice of doing state criminal background checks on administrators in residential child care facilities and adult residential care facilities. However, the new draft would expand the criminal history to include national criminal background checks on the administrators. Additionally it would also include state and national checks on all facility staff and adult occupants of the facilities (defined by the department as residential child and adult care facilities, family child care homes [formerly called day care homes], child care centers [formerly called day care centers], as well as child and adult foster homes). The department will do the criminal history clearance on home size facilities. The other facilities, under the authority in AS 12.62, will do the criminal history search on their staff. The cost for the criminal history search will be paid by the facility or applicant. However the department will pay the costs for foster homes that care for children in state custody.

The department currently issues provisional licenses prior to obtaining criminal history background checks because of emergency situations where a child must be placed before the licensing study can be completed. In these cases, DFYS obtains references, visits the home and gets a signed application, but there is no time for a criminal history clearance. When a child has been removed from an unsafe home and there is no licensed foster home available to take that child, issuance of a license under an emergency condition is appropriate. The department would need to continue that practice pending FBI criminal history clearances. Under the new language in the DFYS draft, licenses and employment would be provisional until it was determined that an individual did not pose a risk of harm to a child.

Under sections (b) and (c) of the DFYS proposed bill a determination would have to be made by the department or facility concerning an individual's potential risk of harm to a child. Consequently the bill would authorize the department or the facility to investigate law enforcement records and to deny licensing or employment unless the licensee or employee can demonstrate that past danger of a risk of harm to a child does not continue to the present. This will, hopefully, avoid the constitutional issue of denial of a license or employment solely because of the badge of a "scarlet letter".

Position Paper  
CS SB 21  
Page 4

Although some child abusers will lie regardless of the application form, the penalty, class A misdemeanor with a penalty of up to one year in jail, for unsworn falsifications (AS 11.56.210) should be a strong inducement to care providers to be truthful.

Recommendations

The department urges passage of Secs. 1, 2 and 3 of this bill to provide ability of employers supervising children to obtain criminal history background checks on their employees. The department appreciates being given the opportunity to draft criminal history provisions that will respond to litigation experienced in the last year and to the complexities of implementing criminal history clearances in licensed facilities. Attached is a fiscal note for the bill including section 4 (adoptions) and the department's proposal for a revised section 5 (expanded criminal history background checks). It should be noted that the costs on Secs. 4 and 5 of the bill are not in the Governor's proposed FY 86 budget.

RECOMMENDED: Michael L. Price  
Michael L. Price, Director  
Division of Family  
and Youth Services

DATE: March 29, 1985

APPROVED: John R. Pugn  
John R. Pugn, Commissioner  
Department of Health  
and Social Services

DATE: 4 - 2 - 85

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST  
Bill/Resolution No.: Proposed CS SB No. 21  
Title: An Act relating to background checks  
Sponsor: WSS  
Requestor: \_\_\_\_\_  
Date of Request: 3/26/85

FISCAL DETAIL  
Agency Affected: Health and Social Services  
Program Category Affected: Social Services  
BRU, Program or Subprogram(s) Affected: Social Services BRU, Southcentral, Northern and Central Office Components

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FI 85	FI 86	FI 87	FI 88	FI 89	FI 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		77.1	79.1	82.3	85.6	89.0
200 TRAVEL		6.6	6.9	7.1	7.4	7.7
300 CONTRACTUAL		37.3	39.1	30.3	31.5	32.7
400 SUPPLIES		1.2	1.3	1.3	1.4	1.4
500 EQUIPMENT		6.7				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>128.0</b>	<b>116.4</b>	<b>121.0</b>	<b>125.9</b>	<b>130.8</b>
<b>CAPITAL</b>		<b>-0-</b>				
<b>REVENUE</b>		<b>-0-</b>				

FUNDING: (Thousands of Dollars)

GENERAL FUND		128.0	116.4	121.0	125.9	130.8
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>128.0</b>	<b>116.4</b>	<b>121.0</b>	<b>125.9</b>	<b>130.8</b>

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME		2	2	2	2	2
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: Michael L. Price Phone: 465-3170  
Division: Family and Youth Services Date: 3/28/85

Approved by Commissioner: [Signature] Date: 4-2-85  
Agency: Health & Social Services *JCC*

Distribution (by Agency preparing fiscal note):  
Legislative Finance  
Legislative Sponsor

IV. ANALYSIS

A. Assumptions

This legislation would require the department to implement state and FBI criminal record checks, which include fingerprinting, for adoptive parents and all facility staff and adult occupants who work or reside within a facility. Because no system exists for this process and because there are numerous legal and logistics problems in implementing it, a full time professional position, Social Worker IV, will be required in the Central Office to work closely with the Department of Public Safety, division field offices, private adoption agencies and the Alaska Bar Association to secure implementation. In addition there will need to be extensive work with the Department of Law regarding confidentiality provisions and potential litigation. There will be a handling burden on offices in Fairbanks and Anchorage, requiring two permanent part-time positions, Clerk Typist III's, in those offices. Until the actual workload is examined it is difficult to measure and predict the actual fiscal impact of this legislation. There are currently 1,016 child and adult foster homes with an average of 2.3 adults in each home. Public Safety has advised that we process clearances at each biennial licensure evaluation. With a 15% turnover this will result in approximately 1,725 clearances in foster homes per year at \$20 per clearance. (\$12.00 FBI processing) (\$8.00 for contracted state processing). This fiscal note assumes that the \$20 background clearance processing cost in adoptions for the 800 new adoptions per year (x 2 adults) will be the responsibility of the adopting applicants.

B. Program Summary

New positions required by this legislation will be as follow:  
 Social Worker IV in Juneau;  
 Clerk Typist III, permanent part-time, one each in Anchorage and Fairbanks

C. Computations

Personal Services - Social Worker IV	\$ 48.8
Clerk Typist III	27.3
Travel	6.6
Contractual	37.4

1,016 x 15% divided by 2 x 2.3	=	1344 x 20.00	=	\$26,880
Space Expense for S.W.				4,950
Space Expense for CT	2,250 x 2	=		4,500
General Contractual				1,100
				\$37,430

Supplies	1.2
Equipment - first year only	6.7
	\$128.0

Note: For successive fiscal years, space would be budgeted by Department of Administration. Computations for successive fiscal years at 4%.

D. Economic Impact

There will be no impact on the State economy.

E. Impact On Local Governments

There will be an economic impact on some local police departments.

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF PUBLIC SAFETY

POUCH N  
JUNEAU, ALASKA 99811  
PHONE: 465-4322

### OFFICE OF THE COMMISSIONER

February 12, 1985

The Honorable Bettye Fahrenkamp  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Fahrenkamp:

This is in response to your letter of January 29, 1985, containing five follow-up questions related to this Department's testimony on SB21. The responses are in the same order as the questions asked.

1. Since the enactment of AS 12.62.035 in 1983, there have been 1015 background checks. The procedure is:
  - A. The applicant presents a completed application to a State Trooper detachment or post, along with a check for \$12.00 payable to the FBI if a record check is to be made by that agency also, and is fingerprinted.
  - B. The detachment or post sends the application, check if any, and fingerprints to the Crime Detection Laboratory in Anchorage.
  - C. The Fingerprint examiners process one fingerprint card through the Alaska Automated Fingerprint System (AAFIS). If there is a FBI records search request also, then a second fingerprint card, and the check for \$12.00, are sent to that agency for processing.
  - D. If the fingerprint card processed through AAFIS results in no record, such is noted on the card and it is returned to the requesting agency. If the search reflects a prior entry into the fingerprint system, it will indicate an AST number. Those having such a number are forwarded to Records and Identification for records checks.

The Honorable  
Bettye Fahrenkamp

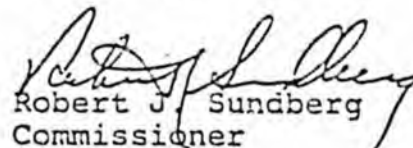
-2-

February 12, 1985

- E. If the records check reveals violations outlined in 12.62.035, that information is sent to the requesting agency, with a copy to the subject applicant.
2. Due to the poor quality of submitted applicant cards as well incorrect information typed on the cards, many must be returned to the submitter. Those that are correctly submitted are input after the criminal cards, which have priority. Normal turn around time, including checks through Records & Identification in Juneau, is ten days.
3. Up to this time, there have been no persons processed that have records identified under 12.62. 5.
4. The procedure for notifying employers of the results of the records check is by form letter accompanied by the fingerprint card.
5. As of this writing, there have been 850 requests for FBI records searches. It takes an average of eight to ten weeks to receive their response.

If this office can be of further assistance on this matter, please do not hesitate to call upon us.

Sincerely,

  
Robert J. Sundberg  
Commissioner

# STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH N  
JUNEAU, ALASKA 99811  
PHONE: 465-4322

September 13, 1964 RECEIVED

SEP 17 1964

Josephson.

The Honorable Joe P. Josephson  
Chair, Senate Health, Education,  
and Social Services Committee  
1024 W. 6th  
Anchorage, AK 99501

Dear Senator Josephson:

This is in response to the questions you raised regarding limited criminal background checks for all licensed day care employees under the proposed Department of Health & Social Services regulations.

At the outset, enclosed for your committee's perusal is a flow chart depicting the process for limited criminal background checks as related to those persons with supervisory power over children covered under AS 12.62.035. Also provided is the form this Department uses.

Your letter addressed the concern of child abuse in child care settings. At the present time, under AS 12.65.035, there are only certain conviction records that may be released. Enclosed is a list of those crimes. As you will note, child abuse is not among them.

The Department can only provide conviction information on the noted crimes. Arrests and charges cannot be released. The files are purged if there are no arrest entries of a person after seven years for misdemeanor or ten years for felonies. If there is an arrest after purging, the file is reactivated. If only a State record check is requested, only that information contained in the State's files is available. That is, if a person was arrested for crimes outside the State, but never arrested in this State, no records of such arrests would appear on the State criminal history files. If the request for the record check is to include the F.B.I. files, then an additional fingerprint card is required as is \$12.00, which is charged by the F.B.I. for each applicant record check.

The Honorable  
Senator Josephson

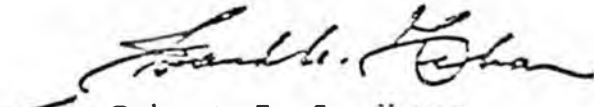
-2-

September 13, 1984

At this point in time, the impact of the criminal records check program has not been felt by the Department. Of the various school districts, only Fairbanks has recently implemented the program. No additional funding or personnel were appropriated to this Department as a result of passage of AS 12.62.035, although one additional person was requested when House Concurrent Resolution 45 was put forth to encourage use of the program. It was felt that once a common use of the criminal records check process under AS 12.65.035 was established, there would be a definite impact upon this Department's resources. If in fact the Department was required to process all licensed child care employees, in addition to other requests, that impact would become insurmountable. To handle the entire program, in light of the proposed child care regulations, would require two (2) additional Records & Identification personnel and a minimum of \$7.5 for postage, mailing material, and printing.

It is hoped this answers your questions on the subject.

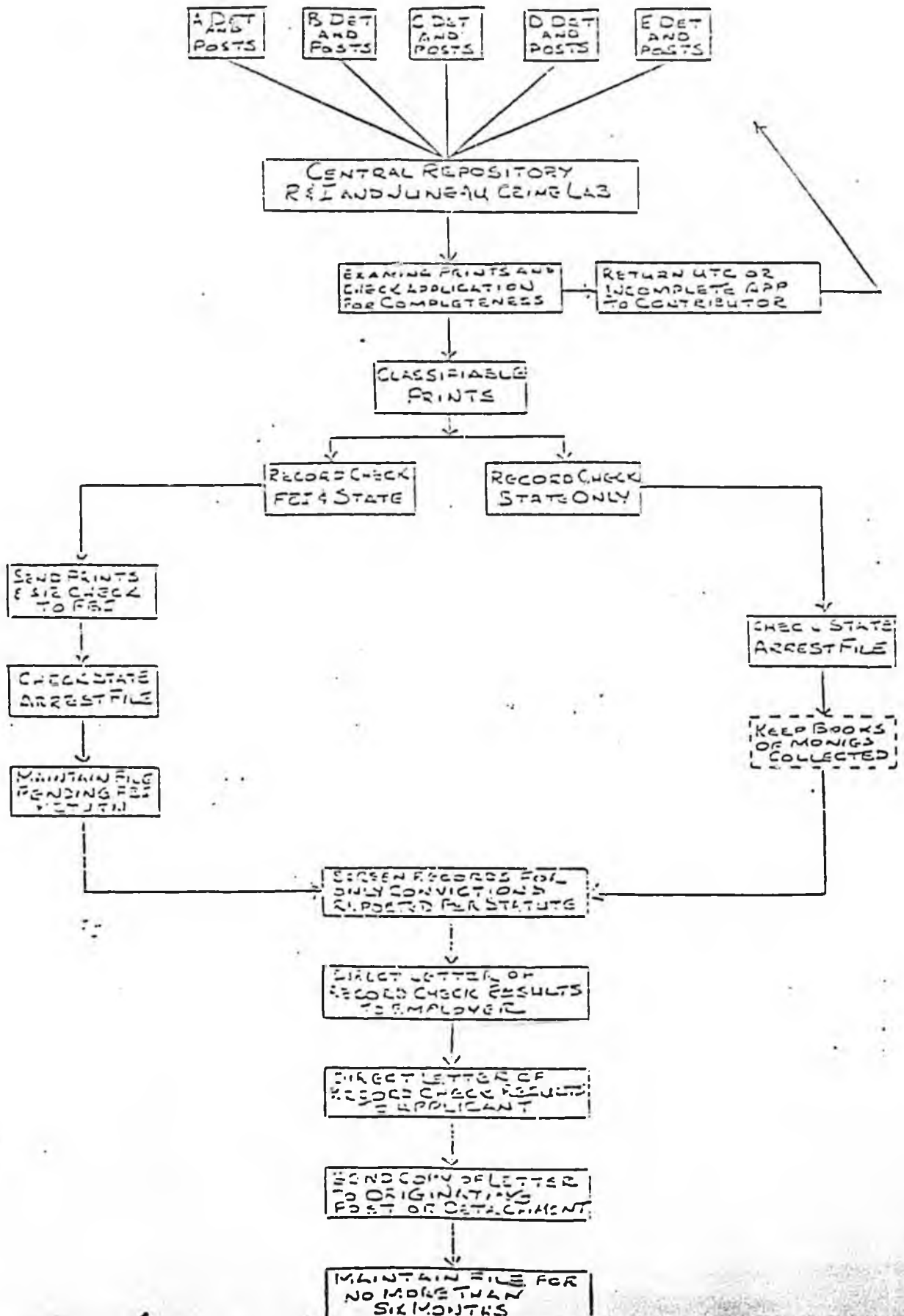
Sincerely,

  
For Robert J. Sundberg  
Commissioner

Enclosures: a/s

FINGERPRINTS GENERATED BY AS 12.62.035

FLOW THRU CENTRAL REPOSITORY



STATE OF ALASKA  
DEPARTMENT OF PUBLIC SAFETY

AS 12.62.035 authorizes the release of certain criminal justice information to an "interested person." "Interested person" is defined in AS 12.62.035(c)(2) as: "a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person, that employs or solicits the employment of a person to serve with or without compensation in a position in which the person has or would have supervisory or disciplinary power of over a minor." A minor is a child under the age of 18.

PART I. REQUEST FOR CRIMINAL HISTORY INFORMATION

"Applicant" is the person requesting the criminal justice information.  
"Subject" is the person about whom the request is made.

- 1) Name of Applicant: \_\_\_\_\_
- 2) Position or Title: \_\_\_\_\_
- 3) Organization (if any): \_\_\_\_\_
- 4) Address: \_\_\_\_\_
- 5) Mailing Address: \_\_\_\_\_
- 6) Phone Number: \_\_\_\_\_ IRS No. (if any): \_\_\_\_\_
- 7) Description of applicant. Check the box which best describes the applicant:
  - A)  public school/school district F)  local, state or federal government agency
  - B)  private school G)  private business
  - C)  nursery/day care center H)  individual
  - D)  church/religious organization I)  other
  - E)  youth organization
- 8) If box F, G, H, or I is checked above, describe the applicant. If an organization, explain its purpose and what it does. Explain specifically the duties the subject has, or will have, which involve supervisory power over children.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 9) List two people who are familiar with the organization (or individual applicant) and can serve as a reference:  
NAME: \_\_\_\_\_ PHONE NO: \_\_\_\_\_  
NAME: \_\_\_\_\_ PHONE NO: \_\_\_\_\_
- 10) Name of Subject: \_\_\_\_\_
- 11) Residence Address: \_\_\_\_\_
- 12) Mailing Address: \_\_\_\_\_

(1) Phone Number: \_\_\_\_\_ Social Security No. \_\_\_\_\_  
 (2) DOB: \_\_\_\_\_ Driver's License No. \_\_\_\_\_  
 (3) Sex: \_\_\_\_\_ Hgt: \_\_\_\_\_, Wt: \_\_\_\_\_, Eye Color: \_\_\_\_\_ Hair Color: \_\_\_\_\_  
 (4) Aliases or prior names: \_\_\_\_\_  
 (5) Position subject now occupies or is being considered for: \_\_\_\_\_

PART II. AGREEMENT FOR THE DISSEMINATION OF CRIMINAL HISTORY INFORMATION

I hereby certify that I have read the information contained on the first page of this form, and that (check one) I am \_\_\_\_\_ or I represent \_\_\_\_\_ an "interested person" as defined in AS 12.62.035. I hereby request a record of any convictions of the above-named subject for contributing to the delinquency of a minor or a sex crime as defined in AS 12.62.035(e).

I certify that the subject of this request (check one): is employed \_\_\_\_\_ or is being considered for employment \_\_\_\_\_ (with or without compensation) in a position involving supervisory or disciplinary power over a child or children under the age of 18. I certify that employment considerations are the sole reason for this request for information.

In exchange for the release of the requested information, I agree that any information released to me will remain confidential, and will be used only to make lawful employment decisions. I agree to take all possible precautions to prevent the disclosure of this information to unauthorized persons, and agree to immediately report to the Alaska State Troopers any intentional or accidental disclosure of this information by anyone to unauthorized persons.

I understand that unauthorized dissemination or other misuse of this information will result in the denial of future requests for information and may subject me to criminal penalties, including a fine of up to \$1,000, a jail sentence of up to one year, or both.

\_\_\_\_\_  
 Signature of Applicant  
 Date \_\_\_\_\_

To be filled out by D.P.S. employee receiving this request:

Form of identification shown by applicant: \_\_\_\_\_  
 \_\_\_\_\_ Driver's License No. \_\_\_\_\_ Name of D.P.S. employee \_\_\_\_\_  
 \_\_\_\_\_ State I.D. Card No. \_\_\_\_\_ Title \_\_\_\_\_  
 \_\_\_\_\_ Other. Describe: \_\_\_\_\_ Date \_\_\_\_\_

This request is for information contained in (check only one):  
 \_\_\_\_\_ Alaska Justice Information System - subject's fingerprint card attached.  
 \_\_\_\_\_ FBI criminal records - subject's fingerprint card and a check for \$12.00 made out to "Federal Bureau of Investigation" are attached.

CRIMES FOR WHICH CONVICTION RECORDS

MAY BE RELEASED UNDER AS 12.62.035

(Ch. 66, SLA 1983 - SCS CSHB 375 (Jud.) am S)

AS 11.41.410	Sexual Assault in the First Degree
AS 11.41.420	Sexual Assault in the Second Degree
AS 11.41.430	Sexual Assault in the Third Degree
AS 11.41.434	Sexual Abuse of a Minor in the First Degree
AS 11.41.436	Sexual Abuse of a Minor in the Second Degree
AS 11.41.438	Sexual Abuse of a Minor in the Third Degree
AS 11.41.440	Sexual Abuse of a Minor in the Fourth Degree
AS 11.41.450	Incest
AS 11.41.455	Unlawful Exploitation of a Minor
AS 11.41.460	Indecent Exposure
AS 11.51.130	Contributing To The Delinquency of A Minor
AS 11.61.110 (a) (7)	Disorderly Conduct (exposure)
AS 11.66.100	Prostitution
AS 11.66.110	Promoting Prostitution in the First Degree
AS 11.66.120.	Promoting Prostitution in the Second Degree
AS 11.66.130	Promoting Prostitution in the Third Degree

---

Also included are convictions for an attempt to commit any of the above crimes, and out-of-state convictions which would have been violations of one of these statutes if the offense had been committed in Alaska.

There are points in our lives when we all must do something that is not easy for us, mine being, public speaking, There are things that we don't like to think about or believe that can happen to us. But, no one is safe from the damage a sex offender can do when they are taking advantage of the trust of a child, or the trust an adult puts in a person giving care to their child. No one is safe from this "LAST TABOO", the FBI estimates that one in every four females and one in every eight males will be sexually assaulted before they graduate from high school. 85 percent of the victims will be abused by someone they know and trust. These children need our protection. They need their surroundings made safe, and their parents need to know that they are safe. Even though back ground checks will not cure the problem it is a start and we must start somewhere. The postal service does back ground checks to protect our mail and the banks do the same to protect our money, aren't our children more important?

I felt I had provided my children with some security. I have Spoke to them about sexual abuse. I have let them know that I would always be there and believe them, reassure them, and help protect them. I have told them that their bodies are their own, that they do not have to let anyone touch them in away that they do not like. But, this is not enough protection, this will not keep them from the horrible crimes against children that sexual offenders are getting away with.

My two year old daughter was "allegedly" sexually abused at her STATE licensed day care facility, I use the term alleged because she can not or is to terrified to identifu her offender and nothing can be

done to stop it from happening to other children still in the facility. A back-ground check may have kept it from happening or happening again to another child. There is nothing more frightening, more depressing, more infuriating than watching your small child go through the pain an experience like this does cause and to be helpless and not be able to tell her with assurance that it will never happen again. She may never feel safe again. We must stop this from happening and do everything in our power, as adults, parents, and law makers to keep our children safe.

12.61.020

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Revisor's notes. — Section 11, ch. 154, SLA 1984 provides that if this section is held invalid by a final decision of an appellate court, AS 19.67.165, repealed by sec. 11, ch. 154, SLA 1984, is revived.

### Chapter 62. Criminal Justice Information Systems Security and Privacy.

Section

- 10. Regulations
- 15. Collection and security of intelligence information
- 17. Annual report to commission
- 20. Collection and storage
- 30. Access and use

Section

- 35. Access to certain crime information
- 40. Security, updating, and purging
- 50. Interstate systems for the exchange of criminal justice information
- 60. Civil and criminal remedies
- 70. Definitions

Sec. 12.62.010. Regulations. (a) The Governor's Commission on the Administration of Justice established under AS 44.19.110 — 44.19.122 is authorized, after appropriate consultation with representatives of state and local law enforcement agencies participating in information systems covered by this chapter, to adopt regulations and procedures considered necessary to facilitate and regulate the exchange of criminal justice information and to insure the security and privacy of criminal justice information systems. The notice and hearing requirements of the Administrative Procedure Act (AS 44.62), relating to the adoption of regulations, apply to regulations adopted under this chapter

(b) In addition to regulations adopted under (a) of this section, the commission shall, after appropriate consultation with representatives of state and local law enforcement agencies, adopt regulations and procedures governing the gathering of intelligence information and the storage, security, and privacy of the intelligence information collected and maintained by law enforcement agencies in the state. The notice and hearing requirements of the Administrative Procedure Act (AS 44.62), relating to the adoption of regulations, apply to regulations adopted under this subsection. In adopting these regulations, the commission shall take into account both the interest of law enforcement agencies in maintaining the ability to conduct intelligence operations and each individual's right to privacy. (§ 1 ch 161 SLA 1972; am § 1 ch 38 SLA 1976)

Sec. 12.62.015. Collection and security of intelligence information. (a) Regulations of the commission adopted under AS 12.62.010(b) shall include requirements and guidelines concerning the categories of intelligence information which may be gathered by law enforcement agencies in the state, the purposes for which intelligence information may be collected, and the methods and procedures which may be used in collecting intelligence information.

(b) The commission's regulations adopted under AS 12.62.010(b) shall establish standards for the confidentiality and security of intelli-

gence information and provide for controls, access to and dissemination of intelligence information, and methods for updating, correcting and purging intelligence information while maintaining the security and confidentiality of the information. (§ 2 ch 33 SLA 1976)

**Sec. 12.62.017. Annual report to commission.** The chief officer of each state or municipal law enforcement agency shall submit an annual report to the commission, in the form required by the commission, certifying compliance by the agency with the regulations adopted by the commission under AS 12.62.010(b). (§ 2 ch 38 SLA 1976)

**Sec. 12.62.020. Collection and storage.** (a) The commission shall adopt regulations concerning the specific classes of criminal justice information which may be collected and stored in criminal justice information systems.

(b) Information collected under the provisions of any of the following titles of the Alaska Statutes, except for information related to criminal offenses under those titles, may not be collected or stored in criminal justice information systems:

- (1) AS 02, except chs. 20, 30, and 35;
- (2) AS 03 — AS 04;
- (3) AS 05, except chs. 20, 25, 30, and 90;
- (4) AS 06 — AS 10;
- (5) AS 13 — AS 15;
- (6) AS 17;
- (7) AS 18, except AS 18.60.120 — 18.60.175 and ch. 65;
- (8) AS 19 — AS 24;
- (9) AS 25, except ch. 25;
- (10) AS 26 — AS 27;
- (11) AS 29 — AS 32;
- (12) AS 34 — AS 46; and
- (13) AS 47, except chs. 10 and 23.

(§ 1 ch 161 SLA 1972; am § 30 ch 126 SLA 1977)

**Sec. 12.62.030. Access and use.** (a) Except as provided in (b) and (c) of this section and in AS 12.62.035, access to specified classes of criminal justice information in criminal justice information systems is available only to individual law enforcement agencies according to the specific needs of the agency under regulations adopted by the commission under AS 12.62.010. Criminal justice information may be used only for law enforcement purposes or for those additional lawful purposes necessary to the proper enforcement or administration of other provisions of law as the commission may prescribe by regulations adopted under AS 12.62.010. Criminal justice information may not be disseminated to an agency before the commission determines the agency's eligibility to receive that information.

(b) Criminal justice information may be made available to qualified persons for research related to law enforcement under regulations

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adopted by the commission. These regulations must include procedures to assure the security of information and the privacy of individuals about whom information is released.

(c) A person shall have the right to inspect criminal justice information that refers to the person. If a person believes the information to be inaccurate, incomplete or misleading, the person may request the criminal justice agency having custody or control of the records to purge, modify or supplement them. If the agency declines to do so, or if the person believes the agency's decision to be otherwise unsatisfactory, the person may in writing request review by the commission within 60 days of the decision of the agency. The commission, its representative or agent shall, in a case in which it finds a basis for complaint, conduct a hearing at which the person may appear with counsel, present evidence, and examine and cross-examine witnesses. Written findings and conclusions shall be issued. If the record in question is found to be inaccurate, incomplete or misleading, the commission shall order it to be appropriately purged, modified or supplemented by an explanatory notation. An agency or person in the state with custody, possession or control of the record shall promptly have every copy of the record altered in accordance with the commission's order. Notification of a deletion, amendment and supplementary notation shall be promptly disseminated by the commission to persons or agencies to which records in question have been communicated, as well as to the person whose records have been altered.

(d) An agency holding or receiving criminal justice information shall maintain, for a period determined by the commission to be appropriate, a listing of the agencies to which it has released or communicated the information. These listings shall be reviewed from time to time by the commission or staff members of the commission to determine whether the provisions of this chapter or any applicable regulations have been violated.

(e) Reasonable hours and places of inspection, and any additional restrictions, including fingerprinting, that are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them may be prescribed by published rules. Fingerprints taken under this subsection may not be transferred to another agency or used for any other purpose.

(f) A person or agency aggrieved by an order or decision of the commission under (c) of this section may appeal the order or decision to the superior court. The court shall in each case conduct a de novo hearing and may order the relief it determines to be necessary. If a person about whom information is maintained by an agency challenges that information in an action under this subsection as being inaccurate, incomplete or misleading, the burden is on the agency to prove that the information is not inaccurate, incomplete or misleading. (§ 1 ch 161 SLA 1972; am § 1 ch 66 SLA 1983)

Effect of amendments. — The 1983 "12.62.035" near the beginning of subsection (a) inserted "and in AS 12.62.035(a)".

**Sec. 12.62.035. Access to certain crime information.** (a) Notwithstanding any other provision of law, an interested person as defined in (e) of this section may request from the commission records of all convictions involving contributing to the delinquency of a minor and any sex crimes of a person who holds or applies for a position in which the person has or would have supervisory or disciplinary power over a minor. The commission shall authorize the disclosure of the information to the requesting interested person and shall provide a copy of the information to the person who is the subject of the request.

(b) A request for records under (a) of this section shall include within it the fingerprints of the person who is the subject of the request and any other data specified in regulations adopted by the commission. The request shall be on a form approved by the commission, and the commission may charge a fee to be paid by the requesting interested person for the actual cost of processing the request. The commission shall destroy an application within six months after the requested information is sent to the requesting interested person and the person who is the subject of the request.

(c) The commission shall adopt regulations to implement the provisions of this section.

(d) If an individual is denied employment as a result of the disclosure of inaccurate or incomplete records under this section, an action may be brought against the state. No other action may be brought against the state, or an agency or employee of the state, as a result of disclosing or failing to disclose criminal justice information.

(e) As used in this section

(1) "contributing to the delinquency of a minor" means a conviction for a violation or attempted violations of AS 11.51.130(a)(1), (3), or (5); former AS 11.40.130; or the laws of another jurisdiction if the offense would have been a crime in this state under AS 11.51.130(a)(1), (3), or (5) or former AS 11.40.130 if committed in the state;

(2) "interested person" means a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person, that employs or solicits the employment of a person to serve with or without compensation in a position in which the person has or would have supervisory or disciplinary power over a minor;

(3) "sex crime" means a conviction for a violation or attempted violation of AS 11.41.410 — 11.41.470, AS 11.61.110(a)(7), or AS 11.66.100 — 11.66.130; former AS 11.15.120, 11.15.134, or 11.15.160; former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 — 11.40.420; or the laws of another jurisdiction if the offense would have been a crime in this state under one of the sections listed in this paragraph if committed in the state. (§ 2 ch 66 SLA 1983; am § 44 ch 6 SLA 1984)

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**Effect of amendments.** — The 1984 amendment, in subsection (e), in paragraph (1), substituted "former AS 11.40.130; or the laws of another jurisdiction" for "or for a violation or attempted violation of an offense committed outside the state" and inserted "or former AS 11.40.130," and in paragraph (3) substi-

tuted "former AS 11.15.120, 11.15.134, or 11.15.160; former 11.40.080, 11.40.110, 11.40.130, or 11.40.200 — 11.40.420; or the laws of another jurisdiction" for "or for a violation or attempted violation of an offense committed outside the state" and "sections listed in this paragraph" for "above sections."

**Sec. 12.62.040. Security, updating, and purging.** (a) Criminal justice information systems shall

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

(2) include operating procedures approved by the commission which are reasonably designed to assure the security of the information contained in the system from unauthorized disclosure, and reasonably designed to assure that criminal offender record information in the system is regularly and accurately revised to include subsequently furnished information;

(3) include operating procedures approved by the commission which are designed to assure that information concerning an individual shall be removed from the records, based on considerations of age, nature of record, and reasonable interval following the last entry of information indicating that the individual is still under the jurisdiction of a law enforcement agency.

(b) Notwithstanding any provision of this section, any criminal justice information relating to minors which is maintained as part of a criminal justice information system must be afforded at least the same protection and is subject to the same procedural safeguards for the benefit of the individual with respect to whom the information is maintained, in matters relating to access, use and security as it would be under AS 47.10.090. (§ 1 ch 161 SLA 1972)

**Sec. 12.62.050. Interstate systems for the exchange of criminal justice information.** (a) The commission shall regulate the participation by all state and local criminal justice agencies in an interstate system for the exchange of criminal justice information, and shall be responsible to assure the consistency of the participation with the provisions and purposes of this chapter. The commission may not compel any criminal justice agency to participate in an interstate system.

(b) Direct access to an interstate system for the exchange of criminal justice information shall be limited to those criminal justice agencies that are expressly designated for that purpose by the commission. When the system employs telecommunications access terminals, the commission shall limit the number and placement of the terminals to those for which adequate security measures may be taken and as to which the commission may impose appropriate supervisory regulations. (§ 1 ch 161 SLA 1972)

**Sec. 12.62.060. Civil and criminal remedies.** (a) A person with respect to whom criminal justice information has been wilfully maintained, disseminated, or used, or intelligence information has been collected, obtained or used, in violation of this chapter has a civil cause of action against the person responsible for the violation and shall be entitled to recover actual damages and reasonable attorney fees and other reasonable litigation costs.

(b) A person who wilfully disseminates or uses criminal justice information knowing such dissemination or use to be in violation of this chapter, or who knowingly collects, obtains or uses intelligence information in violation of this chapter, upon conviction, is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both.

(c) A good faith reliance upon the provisions of this chapter or of applicable law governing maintenance, dissemination, or use of criminal justice information, or upon rules, regulations, or procedures prescribed under this chapter is a defense to a civil or criminal action brought under this chapter. (§ 1 ch 161 SLA 1972; am § 3 ch 38 SLA 1976)

**Sec. 12.62.070. Definitions.** In this chapter

(1) "commission" means the Governor's Commission on the Administration of Justice established under AS 44.19.110 — 44.19.122;

(2) "criminal justice information" means information concerning an individual in a criminal justice information system and indexed under the individual's name, or retrievable by reference to the individual by name or otherwise and which is collected or stored in a criminal justice information system;

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

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

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

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(6) "law enforcement" means any activity relating to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control or reduce crime or to apprehend criminals, activities of criminal prosecution, courts, public defender, corrections, probation or parole authorities:

(7) "law enforcement agency" means a public agency which performs as one of its principal functions activities pertaining to law enforcement and includes the child support enforcement agency created by AS 47.23. (§ 1 ch 161 SLA 1972; am § 4 ch 38 SLA 1976; am § 31 ch 126 SLA 1977)

### Chapter 65. Coroner's Inquest.

Section

- 10. Appointment of medical examiner
- 20. Duties
- 25. Post mortem examinations
- 30. Coroners
- 40. Inquiry into cause of death
- 50. Summoning jurors for inquest
- 60. Oath of inquest jurors

Section

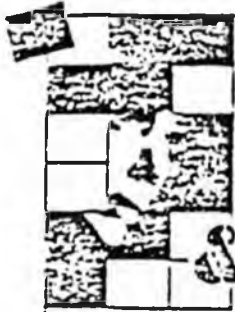
- 70. Subpoena and examination of witnesses
- 80. Verdict of inquest jury
- 90. Notification of prosecuting attorney
- 100. Unclaimed bodies
- 110. Inventory and disposition of property

Collateral references. — 18 Am. Jur. 13 C.J.S., Coroners, § 1 et seq.; 30  
2d, Coroners or Medical Examiners, § 1 et C.J.S., Sheriffs and Constables, § 38.  
seq.

**Sec. 12.65.010. Appointment of medical examiner.** The commissioner of health and social services may appoint medical examiners in each of the judicial districts. The commissioner may appoint any number and designate them to serve in those areas as, in the opinion of the commissioner, the administration of justice requires. To be eligible for medical examiner, a person shall be a physician licensed to practice in this state or a physician employed by the state, or by any agency of the United States government within the state if the physician is licensed in a state other than Alaska. Appointments shall be for a term not more than one year. (§ 10.01 ch 34 SLA 1962; am § 6 ch 104 SLA 1971)

Collateral references. — 18 Am. Jur. 13 C.J.S., Coroners, §§ 1, 3-7, 30; 30  
2d, Coroners or Medical Examiners, C.J.S., Sheriffs and Constables, § 38.  
§§ 1-1b.

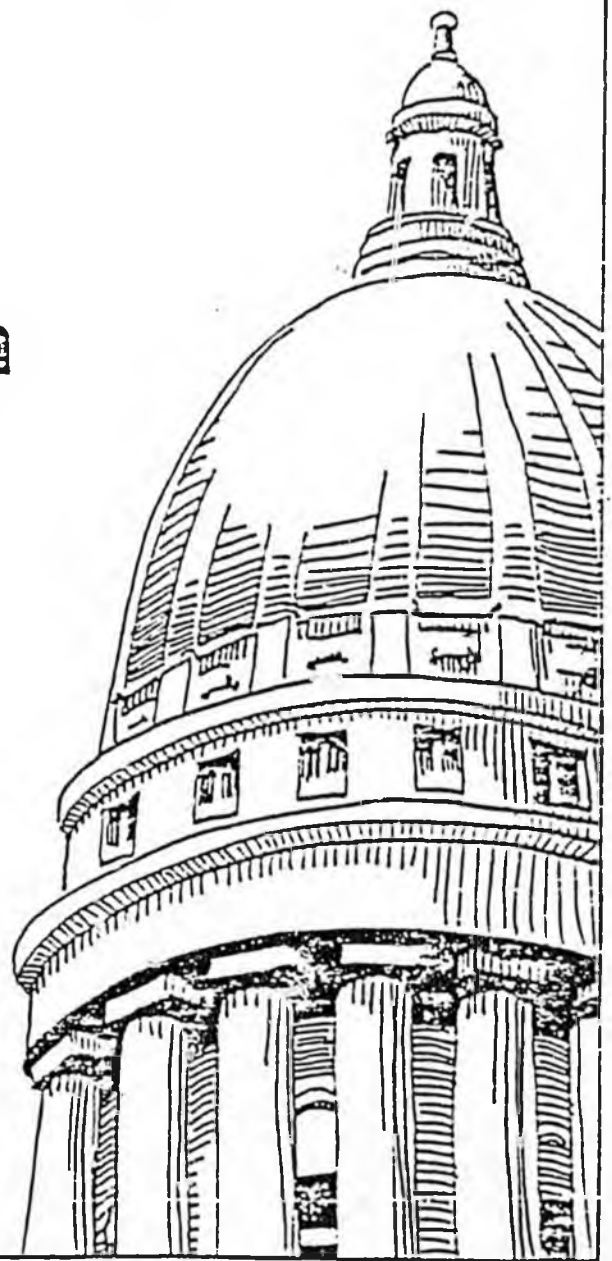
**Sec. 12.65.020. Duties.** When a person dies unattended by a physician, or when no physician is prepared to execute the certificate of death prescribed by the Vital Statistics Act, the coroner assigned to



NATIONAL  
CENTER FOR  
**MISSING  
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CHILDREN

# Selected State Legislation

A  
Guide for  
Effective  
State Laws  
to  
Protect  
Children



## 8. Licensing and Criminal History Information

Unfortunately, many child sexual assault victims are molested by those in a position of trust and authority over them. And, it is a sad fact that many dedicated and sincere professionals who are deeply concerned about the welfare of children are working in organizations and institutions with those who would seek to harm or exploit children. The vast majority of those who work with children, however, are dedicated people who would *never* seek to harm a child in any way.

It is important to note that criminal history checks will *not* be a complete or thorough solution to the problem of child exploitation in specific institutions and child activities. It is one important step that many states have undertaken to protect children from criminal and sexual exploitation.

### Criminal History Information

One step that many states have undertaken to protect children from criminal and sexual exploitation is a check on an individual's criminal record. While some states have focused their attention on particular professions, such as school employees or day care personnel, it is more appropriate to consider all individuals who work with or volunteer to assist children in a variety of occupations and activities. The scope of the problem goes far beyond one or two institutions and activities.

A *criminal history check* is a two-part process:

1. A check through the state law-enforcement system to determine if there have been any particular kinds of offenses committed by that individual in the state.
2. A check through the federal law-enforcement information system to determine if other states have records of the criminal history of the individual. A record check through both systems will cost between \$20 and \$25.

Some of the state statutes providing for a criminal history authorize access by prospective employers; other statutes allow access to the information by authorizing or licensing an agency of the state government. Also, some states authorize a check by the individual's name and Social Security number, while others use fingerprints as well.

**Federal Law Requiring Background Information and Criminal Histories** In 1984 a federal law was passed that requires that any state wishing to receive certain specific funds under Title XX of the Social Security Act to enact, by September 1985, the following:

A state law or regulation to provide for employment history, background checks, and nationwide criminal record checks for all "existing and prospective operators, staff, or employees of child care facilities (including any facility or program having primary custody of children for 20 hours or more per week), juvenile detention, correction, or treatment facilities." (P.L. 98-473)

**State Laws Requiring a Criminal History Inquiry** Checking criminal histories is not an unusual procedure in some states. For example, one state allows such checks for a total of over 65 occupations or professional licenses, including licenses for acupuncture, automobile dealerships, barber shops, bingo operators, funeral directors, engineers, nurses, plumbers, public accountants, school bus drivers, and many others. Another source for background information is the state child abuse and neglect registry, which identifies abusers. Care must be taken to exclude those individuals who were referred to the registry but who were never proved to be abusers.

**Criminal History Information on Those Supervising Children** At least three states have enacted legislation to allow an employer to request information about convictions of sex crimes for any person who would have supervisory or disciplinary power over a minor. Kentucky (1984, H.B. 486) recently enacted such a law, an excerpt of which is reproduced below:

**SECTION 10.**

(1) Notwithstanding any other provisions of law, an employer may request from justice cabinet records of all available convictions involving any sex crimes of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The cabinet shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(2) Any request for records under subsection (1) of this section shall be on a form approved by the cabinet, and the cabinet may charge a fee to be paid by the employer for the actual cost of processing the request.

(3) The cabinet shall adopt regulations to implement the provisions of this section.

(4) As used in this section "employer" means any organization specified by the attorney general which employs or uses the services of volunteers or paid employees in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(5) As used in this section "sex crimes" means a conviction for a violation or attempted violation of KRS 510.040 to 510.150, 529.020 to 529.030, 529.070, 539.020, 530.020, 531.310, 531.320, 531.340, to 531.370, and the criminal offense of unlawful transaction with a minor. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

Alaska (§ 12.62.035) and California (Penal Code, §11105.2) have enacted legislation similar to Kentucky's. An excerpt from the California statute follows:

§11105.2. Record of conviction involving sex crime: availability to employer for applicant for position with supervisory or disciplinary power over minor.

(a) Notwithstanding any other provisions of law, an employer may request from the Department of Justice records of all convictions involving any sex crimes of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The Department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

New York law (§ 373-a) also provides an authorized agency access to records in the Criminal Justice Division to determine the qualifications of persons who will care for and supervise children. An excerpt from the New York statute follows:

§373-a. Access to conviction records by authorized agencies.

Subject to rules and regulations of the division of criminal justice services, an authorized agency shall have access to conviction records maintained by state law enforcement agencies pertaining to persons who have applied for and are under active consideration for employment by such authorized

agency in positions where such persons will be engaged directly in the care and supervision of children.

**Criminal History Information on Foster and Adoptive Parents** Connecticut legislation (§ 54-142K) provides for criminal conviction checks on prospective foster or adoptive parents. This statute, a portion of which is reproduced below, also provides for the Department of Children and Youth Services to obtain criminal conviction records for those working with children:

(f) Notwithstanding any other provisions of law to the contrary, upon request to a criminal justice agency by the department of children and youth services or by any other youth service agency approved by the department such criminal justice agency shall provide information to the department or youth service agency concerning the criminal conviction record of an applicant for a paid or voluntary position, including one established by contract, whose primary duty is the care or treatment of children, including applicants for adoption or foster parents. All information, including any criminal conviction record, procured by the department of children and youth services or any other youth services agency shall be confidential and shall not be further disclosed by such agencies or their representatives. Any violation of the provisions of this subsection relative to the confidentiality of information received by the department of children and youth services or other youth service agencies shall be punishable by a fine of not more than one thousand dollars.

**Criminal History Information on School Employees** Three states have enacted legislation that would require criminal history inquiries for anyone connected with the school system. California (Education Code, §5123) has mandated that no person who has been convicted of a sex offense may be employed by a school district. Following is an excerpt from the California statute:

§5123. Employment after conviction of sex offense or narcotics offense.  
No person shall be employed or retained in employment by a school district who has been convicted of any sex offense.

Florida (1984, H.B. 969) has also recently mandated that applicants for teacher certification be subject to both state and federal criminal history checks to determine if the applicant had been convicted of a misdemeanor, felony, or other criminal charge.

The State of Nevada (391.020) requires that an applicant for teacher certification submit fingerprints and written permission authorizing a criminal history check:

391.020 Certificates granted by superintendent of public instruction: fingerprinting of applicants.

1. All certificates for teachers and other educational personnel are granted by the superintendent of public instruction. He may issue certificates to all qualified persons under the regulations of the state board of education.

2. Every applicant for a certificate shall submit with his application a complete set of his fingerprints and written permission authorizing the superintendent to forward such fingerprints to the Federal Bureau of Investigation for its report. The superintendent may issue a provisional certificate pending receipt of such report if he determines that the applicant is otherwise qualified.

3. Upon receipt of the report referred to in subsection 2 and a determination by the superintendent that the applicant is qualified, a certificate must be issued to the applicant.

## Licensing Child Care Institutions

Several states have enacted legislation requiring criminal record information on those connected specifically with *child care institutions*. New Hampshire (§170-E:4) requires investigations of all those dealing with children at particular child care facilities. An excerpt from the New Hampshire statute is reproduced below:

### 170-E:4 Applications.

I. Any person who intends to receive children, or arranges for care or placement of one or more children unrelated to the operator, shall apply for a license to operate one or more of the types of facilities for child care. Application for a license to operate a child care facility shall be made to the department in the manner and on forms prescribed by rule by the commissioner under RSA 541-A. In cooperation with the operator, there shall be an examination of the facility, an investigation of the program and person responsible for the care of children.

II. Upon receipt of any application, the department shall in every case examine the child abuse records of the division of welfare and the criminal conviction records of the state police to determine whether the applicant is of proper character. If the applicant is found to have any record in either the child abuse or the state police files, the department shall indicate that the record exists in its files on the applicant. If the applicant is found to have been convicted of child abuse, he shall not be issued a license.

Colorado (§26-b-104) has enacted legislation for screening the administrator, the applicant, an employee, or applicant for a license of a child care facility. The Colorado legislation, which follows, includes the stipulation that no license to operate a family care home or child care center will be issued to anyone convicted of child abuse or an unlawful sexual offense:

### 26-b-104. Licenses, out-of-state notices, and consent.

No license or certificate to operate a family care home or child care center shall be issued by the department, a county department, or a child placement agency licensed under the provisions of this article if:

(a) The person applying for such a license or certificate has been convicted of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S. 1973, according to the records of the Colorado bureau of investigation; or

(b) The person applying for a license or certificate has not consulted with the Colorado bureau of investigation, as defined in section 13-21-115 (1)(c), C.R.S. 1973, to determine whether any employee of the family care home or child care center has, according to the bureau's records, been convicted of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S. 1973.