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Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

April 18, 1985

TO: Senator Pat Rodey, Chairman
Judiciary Committee

FROM: Senator Frank R. Ferguson *FRF*

SUBJECT: CSSB 21 (HESS)

I wish to request the scheduling of CSSB 21 (HESS) before the Judiciary Committee at your earliest convenience. I believe that this is a very important bill which should be passed this year.

Thank you for your consideration.

FRF/mjs

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

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JUNEAU, ALASKA 99811
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DOCUMENT #85-112

April 2, 1985

The Honorable Patrick Rodey
Senate Judiciary
Pouch V
Juneau, AK 99811

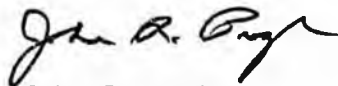
Dear Senator Rodey:

In response to your March 25, 1985 letter, I am most appreciative of your suggestion and interest in protecting the children of the State of Alaska. I agree that one of the tools that can be utilized to reduce risk to children is a criminal history background clearance on employees who supervise minors. I am aware that under AS 12.62 employers have the ability to obtain criminal history checks on employees at this time.

Because of the high interest in mandatory criminal history background checks and the various issues involved, the division is receiving a great deal of information that would be useful to licensees. In particular, the U.S. Department of Health and Human Services published an excellent monograph regarding recruitment and selection of staff, and background checks. The Division of Family and Youth Services will develop a package of these materials, an explanation of current options available to the licensees to be sent at the end of the fiscal year. At that time it will be possible to give each of the licensees a copy of the enclosed brochure, an explanation of AS 12.62 and any new laws regarding child abuse and neglect that may be relevant to their operation. In this manner the licensees then would have more complete information about their options and responsibilities in hiring staff and also the State's responsibilities to them.

Thank you for your suggestion and continuing interest in protecting the children of Alaska.

Sincerely,



John R. Pugh
Commissioner

Enclosure

Recruitment & Selection of Staff:

*A Guide for
Managers of
Preschool &
Child Care
Programs*



Introduction

The staff members of a child care or preschool program are the most important element in the successful operation of the program. It is the staff that is responsible for creating and maintaining a safe and healthy learning environment in which each child's individual needs can be identified and addressed. And it is the staff that is responsible for developing a partnership with parents to promote the well-being of the child.

Because of these key rules, each program should have written personnel policies designed for the protection of both employees and the children. They should provide employees with a clear understanding of the work requirements and responsibilities. Equally important, they should provide program managers with a carefully developed recruitment, screening and selection process for ensuring that staff members can adequately perform the work requirements and handle the accompanying responsibilities.

This brochure provides program managers with a list of the basic components of a clearly defined personnel policy with an emphasis on the importance of staff recruitment, screening and the selection process. It also provides guidance to program managers in the area of policies related to child abuse and neglect. Suggestions are also offered on monitoring new staff performance.

RECRUITMENT, SCREENING AND SELECTION OF PROGRAM STAFF

Every preschool and child-care program should have clearly written personnel policies that are updated periodically and available to all employees. At a minimum, they should include: job descriptions; compensation and leave policies; a performance appraisal system; and resignation and termination policies. Policies on employee recruitment, screening and selection should also be an integral part of an organization's personnel policies.

The goal of any recruitment and selection system should be to hire the best qualified person for the job, whether it be an outside person qualified for a vacancy, or a current staff member qualifying for a higher position. The entire process should allow individuals to be recruited, examined and appointed to positions within the child care or pre-school program on a fair and equitable basis. The elements of a good system include:

- announcing the vacancy;
- examining the qualifications of candidates;
- interviewing candidates who qualify;
- observing finalists in the job for which they are applying;
- checking public records on the individual chosen for the job, and;
- hiring the best qualified person.

Some agencies and programs may find it helpful to form a personnel committee to perform the above functions and make recommendations for final selections to the appropriate program official or governing board. Parents, line supervisors and other staff members can also be very useful in the recruitment and selection of candidates.

Programs should be aware of the following federal and/or state requirements when establishing recruitment and selection procedures:

- Federal policies and regulations regarding equal employment opportunity and non-discrimination.
- Requirements in some states regarding checking prior convictions for child abuse and child sexual abuse (sometimes requiring or allowing fingerprinting).

As this guide was being prepared, Congress passed and the President signed into law a modifica-

tion of the Social Service Block Grant which makes available to States \$25,000,000 for the purpose of training and retraining child care providers, State licensing and enforcement officials, and parents in the prevention of child abuse in child care settings. In addition, Public Law 98-473 provides that:

(2)(A) Any State receiving an allotment under such title from the funds made available as a result of subsection (a) shall have in effect, not later than September 30, 1985—

(i) procedures, established by State law or regulation, to provide for employment history and background checks; and

(ii) provisions of State law, enacted in accordance with the provisions of Public Law 92-544 (86 Stat. 115) requiring nationwide criminal record checks for all operators, staff or employees, or 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, with the objective of protecting the children involved and promoting such children's safety and welfare while receiving service through such facilities or programs.

For the most current information on how your state is planning to implement this law, you may want to contact the person responsible for the Social Service Block Grant in your state. A list of the appropriate person to contact is included at the end of this brochure.

A. Advertisement of Vacancies

Recruitment and hiring should be a fair and equitable process. Programs should advertise vacancies to staff as well as other known sources of employees. Advertisements should also be used to alert the general public to staff vacancies so that recruitment is not narrowed to only a select few. Advertising serves to ensure that the recruitment of candidates is an open competitive process.

Advertisements should be distributed by various means throughout the community. Announcing vacancies can be accomplished by putting announcements on bulletin boards at centers, advertising the position in local newspapers, posting an announcement in other community agencies, alerting local employment bureaus, and distributing vacancy notices to staff and parents.

To be effective, a vacancy announcement should contain sufficient information to enable a person to decide whether or not to apply. Generally, this information should include:

- Job title and qualification requirements, including a brief description of the work responsibilities, where the position fits within the program, and a concise statement of the criteria (e.g. type and duration of experience, credentials) to be used in hiring.
- Salary or salary range and fringe benefits.
- Career advancement opportunities.
- A non-discrimination policy statement that an equal employment opportunity will be provided to candidates.
- Information on how to apply, including where to apply for the position; the name, address and phone number of the program; the individual to contact; the date by which applications must be received and other details that will help candidates apply for the position.

B. Determining Candidates' Qualifications

It is advisable to establish an applicant file for each qualified individual who applies. This file should contain the application forms, resumes, correspondence, background information, results of interviews and any other information that will serve as a resource to assist in the choice of the best qualified candidate for the position. The application file will also later serve as evidence that the selection was fair, open, competitive and resulted in the hiring of the best person for the position.

Each candidate should complete an application form and provide supplemental information as necessary to demonstrate that he/she is qualified for the position. The application form should, at a minimum, contain the name, address and telephone number of the applicant, applicant's present job and reason for wanting to leave, educational level, employment history, special skills and other accomplishments and references.

The determination of candidates' qualifications should not be confined only to a review of the written information that has been provided. Several other techniques should be used to make certain the candidate is qualified. These should include:

- an interview with the candidates;
- a check of references;
- verification of the accuracy of the information

provided by the candidates;

- a performance test or, if possible, an opportunity to observe the candidates in the job for which they are applying;
- a search for information about the candidates from those who know them;
- a solicitation of opinions from those who have worked with the candidates, especially from parents whose children have been under the candidates' care; and
- a comparison of the qualifications of all applicants with the position requirements.

An analysis of the information generated from all these sources should aid the program in making a fair and objective decision in determining those individuals whose qualifications most closely match the specific position descriptions and whose applications should be considered further.

C. Candidate Interview, Observation and Record Check

Once the field of candidates has been narrowed, a number of additional steps should be taken. These include:

- an interview with each candidate whose qualifications are close to those that are required;
- if possible, an opportunity to observe the candidate in the job for which they are applying; and
- a check of public records related to child abuse and neglect convictions.

The interview process is important because the program manager and other interested individuals have an opportunity to meet the candidates and make decisions about their attitudes, capabilities, temperament and other characteristics that may be pertinent in making the final selection. Interviews may be conducted by a personnel committee composed of such persons as the program manager, representatives of governing boards, and/or the supervisor or staff who will be working directly with the employee. The personnel committee members should have a specific list of questions to be asked of each candidate based on the position description and the personal characteristics and qualifications that are desired.

Responses should be documented and ranked in some manner to justify final selections. This documentation should include established checklists, questionnaires or other formats that can

be referred to later in making objective decisions about a candidate's capabilities.

All job candidates should be required to list references on their application form, and all references should be contacted by the hiring agency to obtain relevant information about the candidate. In addition, it may be useful to contact previous co-workers and parents of children who have been under the care of the applicant. Since most people tend to report only favorable information about others, the inquirer must usually "dig" to get a full story. This may require spending some time describing the job for which the candidate has applied, discussing the candidate's past job responsibilities and performance and talking about potential performance in the new job. Possible questions to be asked as part of a reference check might include:

- How does the applicant relate to children? Does the applicant enjoy working with children and do children enjoy being with the applicant?
- Did the applicant come to work on time? How often was the applicant absent from work?
- How well does the applicant accept responsibility? Is the applicant reliable in terms of being prepared for the job at hand and completing jobs assigned? Does the applicant handle problems well and persevere until the job is completed?
- How well does the applicant get along with supervisors, subordinates, and parents? Is the applicant considered easy to work with? Is the applicant cooperative?
- Is the applicant honest and trustworthy?
- In what areas of the new job would you expect the candidate to do very well? With what areas would the candidate have problems?

Reference checks are best done by phone or through face-to-face contact with the reference to allow for the fullest possible discussion. Regardless of how the reference checks are conducted, careful notes should be taken on the information provided and made an official part of the data to be considered when determining who to select for the job.

When the number of candidates is narrowed to the best qualified, an effort should be made to observe each finalist in the position for which they applied. If the candidate is currently employed in a similar job, permission should be secured for one or two persons to observe this individual. If this is not possible, the candidate should be asked to spend

some time in the new job for the purposes of observation. It is appropriate for the candidate to be paid for this time, if necessary.

Once the final selection has been made, it is extremely important to check all available public records regarding evidence of child abuse, sexual child abuse or child neglect by the candidate. These records should be sought at the State, county and local level. The extent to which such records are available to the public vary greatly from state to state. Any findings of criminal behavior should be examined by the personnel committee in light of the program's personnel policies that deal with the protection of the children from abuse and neglect.

D. Final Selection and Hiring

The final selection should be based on judgments about each candidate's qualifications, reference and record checks and the results of their interview and observation. If the personnel committee is empowered to make the final selection, the appropriate program official should be informed of their final choice. An alternative process would include the submission of the names of the three most qualified candidates to the appropriate program official for final selection. The governing bodies of the child care or preschool program may also be responsible for approving the selection.

The successful candidate should be informed of his/her selection and the unsuccessful candidates should be notified after the chosen candidate has accepted. There should then be an official announcement of the selection. If unsuccessful candidates wish to know why they were not selected, the program should be prepared to justify its decision and refer to the documentation of selection procedures in showing why the candidate who was selected was deemed the best qualified.

E. Probationary or Trial Period

Most programs establish a probationary or trial period for new employees. This is particularly the case when it has not been possible to observe the new employee in working with children. The probationary period should always be of fixed duration, and the employee should always be made aware of it before he or she accepts the job. Usually, the move from probationary employment status to permanent is accompanied by salary increase or the extension of one or more fringe benefits which were not previously provided.

PROTECTING PRESCHOOL AND DAY CARE CHILDREN FROM CHILD ABUSE AND NEGLECT

A major consideration for every program serving children should be to protect those children from abuse and neglect. Every program has a responsibility to inform staff of appropriate Federal, state, local and program regulations regarding child abuse and neglect. Written policies should be provided to each staff regarding:

- a code of conduct for staff relating to their behavior with children,
- policies on reporting suspected child abuse and neglect,

- policies on investigating existing staff or staff candidates in regard to child abuse and neglect, and
- policies on hiring staff previously accused, indicted and/or found guilty of child abuse and neglect.

The most important step program managers can take to guard against child abuse and neglect is to ensure that there is adequate day to day supervision of all staff.

MONITORING NEW STAFF

Each program must have a system for monitoring the performance of all staff in the program and must make an extra effort to monitor new staff members. The responsibility for this monitoring lies formally with the individual's supervisor and informally with parents.

It is the supervisor's responsibility to insure that a new staff member's performance is monitored through observation and discussion during and after the probationary period. Especially during the probationary period, the program manager and supervisor should drop in and visit the new employee on the job during work hours to deter-

mine whether or not the individual is performing in a satisfactory manner.

Monitoring of the employee by parents is also important. Parents should be encouraged to drop in and visit the new employee. Parents should also be encouraged to listen to and talk with their children everyday and to learn about the child's concerns and problems. Information on good child care practices, the program schedule, and activities and information on child abuse should be provided to parents to enable them to understand program operations and to quickly identify problems, and act on them immediately.

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Handwritten signature
ALASKA STATE LEGISLATURE
JANUARY 1985

Senate Committee on Health, Education and Social Services

MEMORANDUM

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, April 16, 1985

DATE: April 15, 1985

On Tuesday, April 16, at 1:30 pm in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear the following bills:

SB 21, Relating to background checks on certain employees who come into contact with children.

SB 21, which has been the subject of previous committee hearings, addresses criminal history record checks on persons who supervise and care for children. Attached is a committee substitute which would:

- 1) authorize release of conviction records and outstanding warrants for any crime that might pose a risk of harm to a child,
- 2) require the Department to perform a criminal history check on all petitioners for adoption, and
- 3) require a state and national criminal history check on an applicant for a child care facility license or for facility employment, and on adult occupants of a facility.

The Department would do the check on facility operators and administrators, foster parents, and family care homes; the facilities would do the checks on their staff. The cost of the check would be paid by the facility or applicant, except the state would pay for foster parent checks. The bill provides for provisional licensing and provisional employment pending the national check, and allows for emergency foster care to be provided prior to the state or national check.

SB 21 - BACKGROUND CHECKS

UNDER CURRENT STATUTE, EMPLOYER ALLOWED ACCESS TO CRIMINAL HISTORY OF EMPLOYEES -- SPECIFIC CRIMES ONLY (CONTRIBUTING TO DELINQUENCY OF MINOR, SEX CRIMES). CSSB 21 (HESS):

1. BROADENS CRIMES TO ANY THAT MIGHT POSE A RISK OF HARM TO A CHILD, AS DEFINED IN THE BILL.
2. ALLOWS FOR DISCLOSURE OF OUTSTANDING ARREST WARRANTS FOR THESE CRIMES.
3. MANDATORY STATE AND NATIONAL CHECK ON:
 - PERSONS SEEKING TO ADOPT MINORS
 - STAFF MEMBERS (AND JOB APPLICANTS) OF LICENSED FACILITIES
 - ADULT OCCUPANTS OF FOSTER HOMES AND FAMILY CARE HOMES
 - FACILITY ADMINISTRATORS AND OPERATORS
4. PROVISIONAL LICENSE/EMPLOYMENT ALLOWED AFTER STATE CHECK WHILE PENDING NATIONAL CHECK
5. ALLOWS FOR EMERGENCY PLACEMENT IN FOSTER HOME WITH NO CHECK
6. DEPARTMENT REQUESTS CHECKS ON ADMINISTRATORS AND ADULTS OF FOSTER AND FAMILY CARE HOMES, AND MAKES DETERMINATION OF WHETHER ADULT POSES RISK OF HARM TO CHILD. GRANTS LICENSE ACCORDINGLY.
7. FACILITY OPERATOR REQUESTS CHECKS ON STAFF; MUST REMOVE FROM FACILITY SOMEONE WHO POSES RISK OF HARM TO CHILD.
8. DEPT. PAYS COST OF CHECK FOR FOSTER PARENTS. ALL OTHERS PAID FOR BY APPLICANT OR FACILITY. (\$20)

FISCAL NOTES: H&SS (COST FOR FOSTER PARENTS, PROCESSING)
PUBLIC SAFETY (TO DO FINGERPRINTS)

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;

- 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 under 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. Pugh
John R. Pugh, 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: HESS
 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)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		76.1	79.1	82.3	85.6	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						
TOTAL OPERATING		128.0	116.4	121.0	125.9	130.8
CAPITAL		-0-				
REVENUE		-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUNDS		128.0	116.4	121.0	125.9	130.8
FEDERAL FUNDS						
OTHER						
TOTAL		128.0	116.4	121.0	125.9	130.8

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. Fitch Phone: 465-3170
 Division: Family and Youth Services Date: 3/28/85

Approved by Commissioner: Jan R. Boy Date: 4-2-85
 Agency: Health & Social Services *JCC*

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - CSSB 21 (HESS)

SUPPORT

CSSB 21 (HESS) - "An act relating to the protection of children..."

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 at 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 persons 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 also be interested in providing this service.

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


Robert J. Sundberg
Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 21 (HESS)
 Title: "...background checks...
 contact with children"
 Sponsor: Ferguson
 Requestor: Sen. HESS
 Date of Request: 4/03/85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: AST Support & Service - Laboratory Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		70.2	70.2	70.2	70.2	70.2
200 TRAVEL		1.5	1.6	1.7	1.8	1.9
300 CONTRACTUAL		6.0	6.3	6.6	6.9	7.2
400 SUPPLIES		3.5	3.7	3.9	4.1	4.3
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		81.2	81.8	82.4	83.0	83.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		81.2	81.8	82.4	83.0	83.0
FEDERAL FUNDS						
OTHER						
TOTAL		81.2	81.8	82.4	83.0	83.6

POSITIONS:

FULL-TIME		2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Marcia Lynn McKenzie

Phone: 465-4349

Division: Administrative Services

Date: 4/03/85

Approved by Commissioner: Robert J. Sundberg

Date: 4/6/85

Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):

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

7/1/84

COST ANALYSIS
CSSB 21 (HESS)

<u>100 Personal Services</u>		
Both positions to work swing shift		\$70.2
Latent Fingerprint Examiner I (Range 15A)	\$41.6	
Clerk-Typist III (Range 8B)	28.6	
<u>200 Travel</u>		1.5
Travel for training to keep current in fingerprint technique		
<u>300 Contractual Services</u>		6.0
Postage, telephone	3.5	
Printing of fingerprint cards	2.5	
Training fees	.5	
<u>400 Supplies & Materials</u>		3.5
Supplies for computerized fingerprint system	2.0	
Office & library supplies	1.5	
		<hr/>
	TOTAL	\$81.2

An effective date of July 1, 1985 is assumed.

A 5% annual inflation factor on line items 200-400 is included beginning in FY 87.

APR 3 1985

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811

PHONE: 465-3030

DOCUMENT #85-112

April 2, 1985

The Honorable Bettye Fahrenkamp
Senate HESS
Pouch V
Juneau, AK 99811

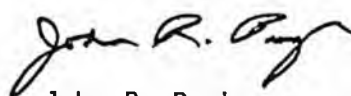
Dear Senator Fahrenkamp:

In response to your March 25, 1985 letter, I am most appreciative of your suggestion and interest in protecting the children of the State of Alaska. I agree that one of the tools that can be utilized to reduce risk to children is a criminal history background clearance on employees who supervise minors. I am aware that under AS 12.62 employers have the ability to obtain criminal history checks on employees at this time.

Because of the high interest in mandatory criminal history background checks and the various issues involved, the division is receiving a great deal of information that would be useful to licensees. In particular, the U.S. Department of Health and Human Services published an excellent monograph regarding recruitment and selection of staff, and background checks. The Division of Family and Youth Services will develop a package of these materials, an explanation of current options available to the licensees to be sent at the end of the fiscal year. At that time it will be possible to give each of the licensees a copy of the enclosed brochure, an explanation of AS 12.62 and any new laws regarding child abuse and neglect that may be relevant to their operation. In this manner the licensees then would have more complete information about their options and responsibilities in hiring staff and also the State's responsibilities to them.

Thank you for your suggestion and continuing interest in protecting the children of Alaska.

Sincerely,



John R. Pugh
Commissioner

Enclosure

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

POSITION PAPER

SB 21

The Alaska Network on Domestic Violence and Sexual Assault, a non-profit corporation representing 20 domestic violence and sexual assault programs statewide, supports SB21, relating to background checks on certain employees who come into contact with children.

Under AS 47.35, facilities that are required to be licensed by the Department of Health and Social Services include:

- boarding homes providing care for less than 6 adults or children not related to the care giver
- foster homes
- group homes providing care for 10 or less adults or children not related to the care giver
- nurseries providing care for children unrelated to the care giver, for any part of a 24-hour day
- institutions providing care for 11 or more adults or children not related to the care giver

Facilities which are not required to be licensed include:

- any of the above which operate for less than 90 days
- a center in which 5 or less children under the age of 14 are provided care, and who are not related to the care giver
- nurseries providing services which are primarily educational in nature (preschools)

In addition to the above, facilities whose employees will not be required to have background checks, SB 21 does not provide for checks on those responsible for securing licenses for facilities required to be licensed, such as the administrative officer or agent,

The Network supports the intent of the bill to provide measurable and attainable safeguards in order to facilitate the prevention of child sexual and physical abuse. Allowing for background checks on employees who will have supervisory or disciplinary power over a child will provide a much needed mechanism for protecting children from harm.

provided for in HESS C.S.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

POUCH N
JUNEAU, ALASKA 99811
PHONE: 465-4322

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

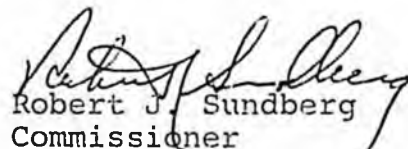
-2-

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 12.62.035.
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, 1984 RECEIVED

SEP 17 1984

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

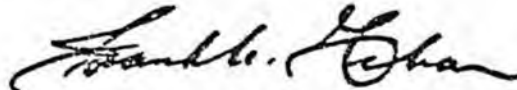
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September 13, 1984

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.

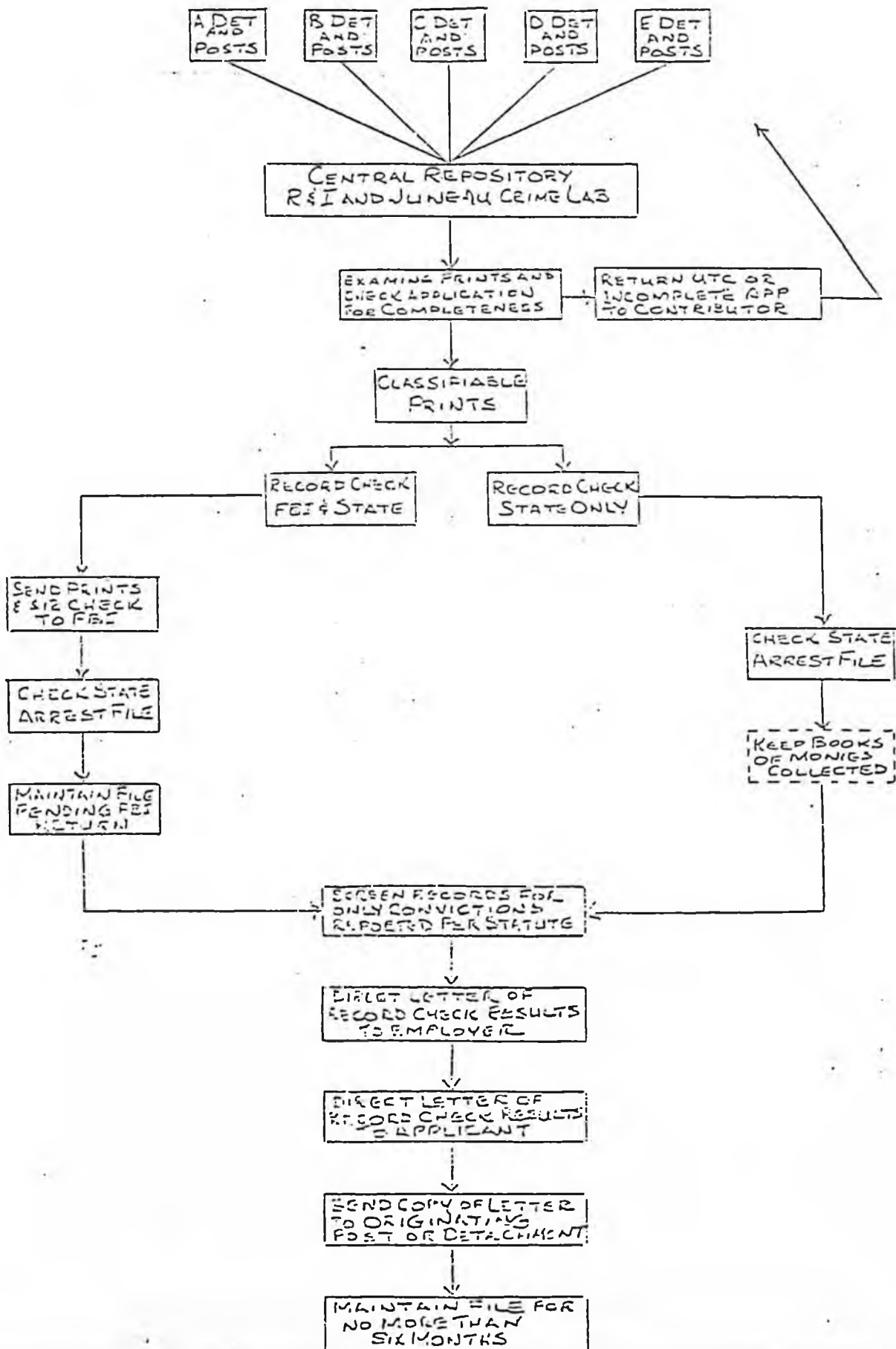
Sincerely,


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: _____

- 13) Phone Number: _____ Social Security No. _____
- 14) DOB: _____ Driver's License No. _____
- 15) Sex: _____ Hgt: _____, Wt: _____, Eye Color: _____ Hair Color: _____
- 16) Aliases or prior names: _____
- 17) 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.