

H B

540



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

March 23, 1988

Representative John Sund
Chairman, House Judiciary Committee
Capitol Building, No. 122
P.O. Box V
Juneau, Alaska 99811

Re: CS for HB 540

Dear Representative Sund:

The court system would like to express its concern about section 1(b) of this bill which prohibits the maintenance of personnel information without notification to the employee. This section fails to address the need to keep confidential personnel information gathered during an ongoing investigation. This type of information should be expressly exempt from employee access.

I would be happy to discuss this issue with you or to answer questions about it.

Very truly yours,

Jan Strandberg
Jan Strandberg

c: Committee members

POSITION PAPER
HB 540

This bill adds a new article to Chapter 10 (Employment Practices and Working Conditions) of Title 23 (Labor and Workers' Compensation). The new article would guarantee that secret files could not be kept on an employee. An employee would be entitled to inspect and copy the employee's personnel file (subsection (a)). Employees would be prohibited from maintaining personnel information on an employee unless the information is placed in the employee's personnel file (subsection (b)). Violations are made a class A misdemeanor (subsection (c)). Employees and employers would be covered by the new provision (subsection (d)).

From a layperson's reading, it is unclear whether the State, as an employer, would be covered by this bill. "Employer" is defined in paragraph (d)(2) as "a person who employs one or more other persons" (emphasis added). As defined in AS 01.10.060(7), "person" does not include the "state" (as state is defined in AS 01.10.060(13)). When the state is included under other provisions of Title 23, it is specifically included. AS 23.10.037(c).

This position paper assumes the state will be covered by the provisions of HB 540. The question of "secret" personnel files has been of serious concern to the state and its employees. Over the years, the state and its employees have mutually agreed on the treatment of files. Collective bargaining contracts provide elaborate processes and procedures relating to personnel files. The state is undoubtedly in compliance with proposed subsection (a).

Subsection (b) presents considerable administrative problems for the state. While the official personnel file on employees in the classified and partially exempt service are maintained by the Division of Personnel, there is "information" about employees in virtually every office in the state. There is no desire, in fact opposition, by employees and management to keep that information in offices and not in the personnel file. To illustrate, suppose a supervisor verbally reprimands an employee for horseplay in a maintenance shop. In addition, the supervisor tells the employee and makes a note of the incident. The note is information to be used in preparing the next performance evaluation or to justify further constructive and progressive discipline should the offense be repeated. If there is no repeat of the offense, the performance evaluation may not even mention it, and the information is ultimately discarded.

In this example, the note is available for inspection and copying under subsection (a), but it is not placed in the employee's personnel file under subsection (b). It is the state's best interest and employee's best interest to maintain this kind of process.

Subsection (c) would make the state guilty of a class A misdemeanor for its current practices. Compliance with subsection (b) would have three results depending on individual responses from supervisors: some would create truly secret files in defiance of the proposed law; some would cease recording information or cease taking actions that should be recorded; and trivial

POSITION PAPER (continued)

information will be recorded and forwarded by the thousands to the Division of Personnel for placement in the employee's personnel file. Obviously, each of these results is undesirable.

If the state is to be covered by the provisions of HB 540, the Department of Administration must take a position in opposition to it. Administrative difficulties, the undesired results, and the disruption of mutually agreed processes with our employees are the reasons for our opposition.

for Michael P. Tom

Bruce Cummings, Director
Division of Labor Relations

3/17/88

Date

J. M. Andrews

Commissioner John M. Andrews
Department of Administration

3/18/88

Date

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

H. JUD.	4-29-88	1:30p.m.
H. JUD.	4-5-88	6:30p.m.

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/23/88

FURTHER REFERRALS:

DATE: April 29, 1988

The Judiciary Committee has considered HB 540

"An Act relating to access to an employee personnel file."

RECOMMENDS:

- replace with CS HB540 (Jud) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 3/23/88
- zero with analysis

SIGNING DO PASS:

[Signature]

[Signature]

[Signature]

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[Signature]

[Signature]

[Signature]

[Signature]

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[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]

Chairman's signature

Original sponsor: Labor & Commerce
Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 540 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring employers to permit employees and
7 former employees to have access to their personnel
8 files."

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

10 * Section 1. AS 23.10 is amended by adding a new section to read:

11 ARTICLE 7. EMPLOYEE RIGHTS.

12 Sec. 23.10.430. ACCESS TO PERSONNEL FILES. (a) An employer
13 shall permit an employee or former employee to inspect and make copies
14 of the employee's personnel file and other personnel information
15 maintained by the employer concerning the employee under reasonable
16 rules during regular business hours. The employer may require an
17 employee or former employee who requests copies of material under this
18 subsection to pay the reasonable cost of duplication.

19 (b) This section does not supersede the terms of a collective
20 bargaining agreement.

21 (c) In this section,

22 (1) "employee" means a person employed by an employer;

23 (2) "employer" means a person who employs one or more other
24 persons and includes the state, the University of Alaska, the Alaska
25 Railroad, and political subdivisions of the state.

5-2031L✓

Cramer
-4/28/88

Original sponsor: Labor & Commerce
Committee

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 540 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

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Original sponsor: Labor & Commerce
Committee

*Suggested
Amendment*

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 540 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL *(to employees)*

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16 employee or former employee who requests copies of material under this
17 subsection to pay the reasonable cost of duplication.

18 (b) An employer may not maintain personnel information concern-
19 ing a specific employee or former employee unless the employer makes
20 diligent efforts to notify the employee or former employee that the
21 information is being maintained.

22 (c) This section ~~does not supersede the terms of a collective~~
23 ~~bargaining agreement.~~

24 (d) In this section,

25 (1) "employee" means a person employed by an employer;

26 (2) "employer" means a person who employs one or more other
27 persons and ~~includes the state, the University of Alaska, the Alaska~~
28 ~~Railroad, and political subdivisions of the state.~~

~~ADDED~~

Original sponsor: Labor & Commerce
Committee

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 540 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

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A BILL

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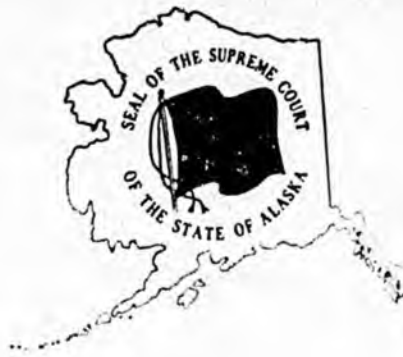
27

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28

Railroad, and political subdivisions of the state.

*① notify and
employers
② terminate*



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

March 23, 1988

Representative John Sund
Chairman, House Judiciary Committee
Capitol Building, No. 122
P.O. Box V
Juneau, Alaska 99811

Re: CS for HB 540

Dear Representative Sund:

The court system would like to express its concern about section 1(b) of this bill which prohibits the maintenance of personnel information without notification to the employee. This section fails to address the need to keep confidential personnel information gathered during an ongoing investigation. This type of information should be expressly exempt from employee access.

I would be happy to discuss this issue with you or to answer questions about it.

Very truly yours,

Jan Strandberg
Jan Strandberg

c: Committee members

JOHN SUND, REPRESENTATIVE

2504 2nd Avenue
Ketchikan, Alaska 99901
(907) 225-5552

While in Juneau
P. O. Box V
Juneau, Alaska 99811
(907) 465-4919

File
HB 540

April 26, 1988

Mr. John Taggart
2139 Third Ave
Ketchikan, Alaska 99901

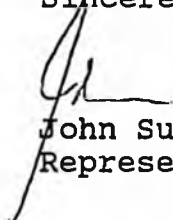
Dear John:

Thank you for your message in support of HB 540 "An Act relating to an employee access to personnel files."

I am in complete agreement with your position. HB 540 is currently in the House Judiciary Committee, which I chair. We are working out some of the issues raised during a recent hearing on the bill.

It is my intention to move the bill out of committee and onto the floor of the House for a vote.

Sincerely,



John Sund
Representative

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE SUND

NAME: JOHN TAGGART

TITLE:

ADDRESS: 2139 THIRD AVENUE

CITY: KETCHIKAN, AK

PHONE: N/R-

ZIP: 99901

Logos

BILL NO: HB 540

SUBJECT: EMPLOYEE ACCESS TO OWN PERSONNEL FILE

MESSAGE: I WOULD LIKE TO SHOW MY SUPPORT FOR HOUSE BILLS 540 AND 542 AND ASK FOR YOUR SUPPORT ON THESE TWO BILLS. I AM A UNION MEMBER AND I THINK THESE BILLS WOULD HELP THE WORKING PERSON AT HIS/HER JOB.

POMID: 08093841

DATE: 04/14/88

TIME: 09:38:41

LIONAME: KETCHIKAN LIO

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE SUND

NAME: IAN LOSBY

TITLE:

ADDRESS: 6019 MOORE

CITY: ANCHORAGE

PHONE: 333-3321

ZIP: 99504

BILL NO:

SUBJECT: 4 AAC 06.065

MESSAGE: I AM 15 YEARS AND I OPPOSE THE BAN ON CORPORAL PUNISHMENT IN PRIVATE SCHOOLS. THE CHILDREN TODAY WOULD BE BETTER OFF IF SPARKING WERE USED IN THE PUBLIC SCHOOLS ALSO. I URGE YOU TO USE YOUR INFLUENCE TO CHANGE DOE COMMISSIONER DEMMERT'S MIND ON THIS IMPORTANT ISSUE.

POMID: 03093907

DATE: 04/14/88

TIME: 09:39:07

LIONAME: ANCHORAGE LIO

We agree with you on a union idea
- Help keep law courts del support
- Completed
we will see what we can do
small office

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- | | |
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| DAVIDSON | DAVIS |
| DONLEY | ELLIS |
| FRANK | FURNACE |
| GOLL | GRUENBERG |
| GRUSSENDORF | HANLEY |
| HERRMANN | HOFFMAN |
| HUDSON | KOPONEN |
| LARSON | MARTIN |
| MENARD | MILLER |
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JH

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| GOLL | GRUENBERG | FANNING |
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| MENARD | MILLER | JOSEPHSON |
| NAVARE | PEARCE | KELLY |
| PETTYJOHN | PHILLIPS | KERTTULA |
| POURCHOT | RIEGER | RODEY |
| SHULTZ | SPRINGER | STURGULEWSKI |
| SWACKHAMMER | TAYLOR | SZYMANSKI |
| ULMER | WALLIS | UEHLING |
| ZAWACKI | | ZHAROFF |

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: An act relating to access to an BRU: Labor Relations
employee personnel file.
 Sponsor: House Labor & Commerce Committee Components: Labor Relations
 Requestor: House Labor & Commerce Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Any additional copying required by this bill for this division, or any Executive Branch agency, will either be charged to an employee or absorbed as a nominal increase in copy charges.

Prepared By: Bruce A. Cummings *Bruce Cummings* Phone: 465-4404
 Division: Labor Relations Date: March 21, 1988

Approved by Commissioner: John M. Andrews *JM Andrews* Date: 3/21/88
 Agency: Department of Administration

Distribution (by preparer):

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

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 540

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labo:
 Title: "An Act relating to an BRU: Labor Standards and Safety
employee personnel file."
 Sponsor: House Labor & Commerce Components: Wage and Hour
 Requestor: House Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director *Tom Stuart* Phone: 264-2452
 Division: Labor Standards and Safety Date: 3/18/88

Approved by Commissioner: Jim Sampson *Jim Sampson* Date: 3/18/88
 Agency: Department of Labor

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/11/88

FURTHER REFERRALS: Judiciary

DATE: 3/22/88

The Labor & Commerce Committee has considered HB 540

"An Act relating to access to an employee personnel file."

RECOMMENDS:

- replace with CSHB 540(L+C) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

[Signature]

[Signature]

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]
Chairman's signature