

HB

52

Original sponsors: Zawacki, Hanley,
and Gruenberg

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR HOUSE BILL NO. 52 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to access by an interested person to
7 criminal records of all felony convictions, convic-
8 tions involving contributing to the delinquency of a
9 minor, and convictions involving sex crimes of cer-
10 tain persons; and providing for an effective date."

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

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

13 (a) An [NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN] inter-
14 ested person [AS DEFINED IN (e) OF THIS SECTION] may request from the
15 Department of Public Safety [COMMISSION] records of all felony con-
16 victions, convictions involving contributing to the delinquency of a
17 minor, and convictions involving any sex crimes of a person who holds
18 or applies for a position of employment in which the person has or
19 would have supervisory or disciplinary power over a minor or dependent
20 adult. The Department of Public Safety [COMMISSION] shall disclose
21 [AUTHORIZE THE DISCLOSURE OF] the information to the requesting inter-
22 ested person and shall provide a copy of the information to the person
23 who is the subject of the request.

24 * Sec. 2. AS 12.62.035 is amended by adding a new subsection to read:

25 (f) The Department of Education shall request and receive re-
26 cords under (a) of this section for a person seeking initial certifi-
27 cation as a teacher or administrator.

28 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. FAIKS

TO: SCS CSHB 52 (Judiciary)

Page 2, line 3:

Delete "a handicapped adult"

Insert "an adult with physical or mental disabilities"

6-0247G
Ford
1/10/90

Original sponsor(s): REP. ZAWACKI, Hanley, Gruenberg

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 52 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to access by an interested person to
7 criminal records of all felony convictions, convic-
8 tions involving contributing to the delinquency of a
9 minor, and convictions involving sex crimes of cer-
10 tain persons; and providing for an effective date."

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14 ested person [AS DEFINED IN (e) OF THIS SECTION] may request from the
15 Department of Public Safety [COMMISSION] records of all felony con-
16 victions, convictions involving contributing to the delinquency of a
17 minor, and convictions involving any sex crimes of a person who holds
18 or applies for a position of employment in which the person has or
19 would have supervisory or disciplinary power over a minor or dependent
20 adult. The Department of Public Safety [COMMISSION] shall disclose
21 [AUTHORIZE THE DISCLOSURE OF] the information to the requesting inter-
22 ested person and shall provide a copy of the information to the person
23 who is the subject of the request.

24 * Sec. 2. AS 12.62.035(e) is amended to read:

25 (e) As used in this section

26 (1) "contributing to the delinquency of a minor" means a
27 conviction for a violation or attempted violations of AS 11.51.-
28 130(a)(1), (3), or (5); former AS 11.40.130; or the laws of another
29 jurisdiction if the offense would have been a crime in this state

1 under AS 11.51.130(a)(1), (3), or (5) or former AS 11.40.130 if com-
2 mitted in the state;

3 (2) "dependent adult" means a handicapped adult who re-
4 quires assistance or supervision with the activities of daily living;

5 (3) "interested person" means a corporation, company,
6 partnership, firm, association, organization, business trust, or
7 society, as well as a natural person, that employs or solicits the
8 employment of a person to serve with or without compensation in a
9 position in which the person has or would have supervisory or disci-
10 plinary power over a minor;

11 (4) [(3)] "sex crime" means a conviction for a violation or
12 attempted violation of AS 11.41.410 - 11.41.470, AS 11.61.110(a)(7),
13 or AS 11.66.100 - 11.66.130; former AS 11.15.120, 11.15.134, or
14 11.15.160; former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 -
15 11.40.420; or the laws of another jurisdiction if the offense would
16 have been a crime in this state under one of the sections listed in
17 this paragraph if committed in the state.

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

19 (f) The Department of Education shall request and receive re-
20 cords under (a) of this section for a person seeking initial certifi-
21 cation as a teacher or administrator.

22 * Sec. 4. The Department of Education shall request and receive records
23 under AS 12.62.035(a) as amended in sec. 1 of this Act, for a person who
24 renews the person's certification as a teacher or administrator, if the
25 department did not request and receive records for the person when the
26 person was initially certified. This section applies only to the first
27 renewal of certification of a teacher or administrator after the effective
28 date of this Act.

29 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

LETTERS OF SUPPORT

for

HB52

September 26, 1989

1. NEA-Alaska
2. Yukon/Koyukuk School District, Nenana, Ak.
3. Chatham School District, Angoon, Ak.
4. Mr. Pius F. Imgalrea, Chevak, Ak.
5. Anchorage School District, Anchorage, Ak.
6. Fairbanks North Star Borough Schools, Fairbanks, Ak.
7. Matanuska-Susitna Borough School District
8. Alaska Gateway School District, Tok, Ak.
9. Alaska PTA
10. Copper River School District, Glennallen, Ak.
11. Mr. Alex Tatum, Chevak, Ak.
12. Ms. Lillian Pingayak, Chevak, Ak.
13. Kodiak Baptist Mission, Kodiak, Ak.
14. Kenai Peninsula School District
15. Governor's Interim Commission on Children and Youth
16. Yupit School District, Akiachak, Ak.
17. Justice for Children, Juneau, Ak.
18. Louise Howerter, Juneau, Ak.
19. Pat Marlin, Juneau, Ak.
20. Sue Miller, Juneau, Ak.
21. Lower Yukon School District, Mountain Village, Ak.
22. Chugach School Board, Chenega Bay, Ak.

23. Hydaburg City School, Hydaburg, Ak.
24. Seward Chamber of Commerce, Seward, Ak.
25. Skagway City Schools, Skagway, Ak.
26. North Slope Borough School District
27. Cordova Chamber of Commerce, Cordova, Ak.
28. Talkeetna Chamber of Commerce, Talkeetna, Ak.
29. Big Lake Chamber of Commerce, Big Lake, Ak.
30. Kake City School District
31. National Federation of Parents For Drug Free Youth
32. Juneau School District, Juneau, Ak.
33. Alaska Council of School Administrators, Juneau, Ak.
34. Association of Alaska School Boards, Juneau, Ak.
35. Department of Education, State of Alaska
36. Department of Public Safety, State of Alaska
37. Craig School District, Craig, Ak.
38. Alaska State Board of Education, Anchorage, Ak.

BILL NO: CSHB 52 (Finance)

DATE: October 3, 1989

TITLE: An Act relating to access by an interested person to criminal records, ... and providing for an effective date.

CONTACT: Gayle A. Horetski Deputy Commissioner 465-4322

DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety supports this bill because it would correct deficiencies in present AS 12.62.035, which significantly limits conviction information which can be released. Under present law an "interested person" can receive information about limited types of criminal convictions (e.g. contributing to the delinquency of a minor or sex crimes), of individuals employed or seeking employment in a position that would give the person supervisory or disciplinary power over minors. At the present time, many serious criminal convictions such as murder, kidnapping, arson, or drug offenses cannot be reported.

The Department urges the Legislature to consider amending CSHB 52 (Fin) to allow the release of all criminal conviction records to "interested persons." Presently, the Department must review conviction information to determine if it falls within the parameters of existing language, while the types of convictions which can be released have been expanded in CSHB 52 (Fin), screening of criminal history records is still required to determine if a given conviction may be reported.

The Department's position is that an "interested person" should be able to receive the complete criminal history of a person who will be working with minor children. The interested person is then able to carefully review the record to determine whether that criminal history record information should have a bearing on the person's employment, certification, licensing, or other benefit.

CSHB 52 (Fin) also expands AS 12.62.035 to include persons who work with "dependent adults." While we agree with this on general policy grounds, there are already serious backlogs in criminal history record checks requested under provisions of AS 12.62.035; without approval of the fiscal note that was submitted May 5, 1989, DPS will not be able to provide this expanded service. A supplemental appropriation has been requested in FY 90 to maintain AAFIS and APSIN services, and an increment will be requested in FY 91. Regulations are also being proposed which will establish a fee for criminal history record checks. This fee will be needed to generate program receipts to supplement the state general fund budget in this area. These fees will probably be paid by the applicant involved.

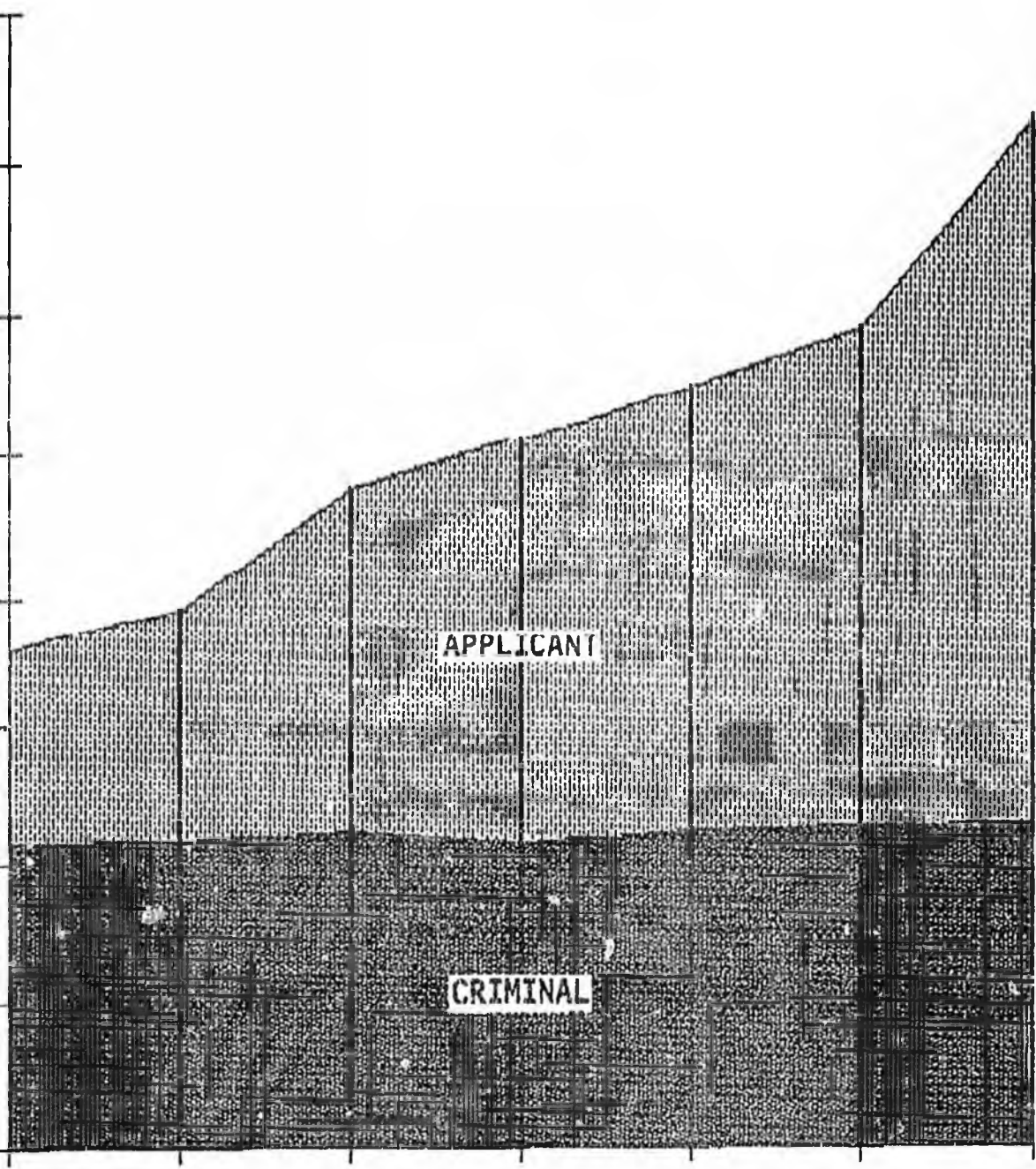
In summary, CSHB 52 (Fin) is an improvement to existing law, and is supported by the Department of Public Safety. We urge the Legislature to strengthen the law even further, however.

Gayle A. Horetski
for Arthur English, Commissioner

FINGERPRINT SEARCHES BY FISCAL YEAR

APPLICANT
REQUESTS

16000
14000
12000
10000
8000
6000
4000
2000
0



FY 85 FY 86 FY 87 FY 88 FY 89 FY 90 FY 91

FISCAL YEAR

FISCAL NOTE

REQUEST:

Revision Date: 01/12/90
Title: Access to Criminal Records

Agency Affected: Public Safety
BRU: DPS Statewide Support

Sponsor: Representative Zawacki
Requestor: Senate Judiciary

Component: AK Criminal Records & ID

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	46.1	46.1	46.1	46.1	46.1	46.1
TRAVEL						
CONTRACTUAL	2.3	2.3	2.3	2.3	2.3	2.3
SUPPLIES						
EQUIPMENT	7.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	55.4	48.4	48.4	48.4	48.4	48.4

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	55.4	48.4	48.4	48.4	48.4	48.4
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	55.4	48.4	48.4	48.4	48.4	48.4

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

The Records and Identification Section operates the Alaska Automated Fingerprint Identification System (AAFIS) and maintains criminal history record information used by police and other criminal justice agencies. Because of the complexity of the research

(Analysis continued on attached)

Prepared by: Ken Bischoff
Division: Administrative Services

Phone: 465-4336
Date: 01/12/90

Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Date: 1-12-90
Page 1 of 5

Ken Bischoff
1/12/90

FISCAL NOTE - SCS CSHB 52 (Jud)
Department of Public Safety
(Analysis, continued - Page 2 of 5)

required to process criminal history record checks under AS 12.62.035, one full-time and one part-time Clerk IV will be required to handle the 2,000 requests expected from the Department of Education for initial certifications and 2,000 recertifications, and 2,500 for health care employees each year. Existing AAFIS staff are not able to keep current with their present workload. Without additional staff to accommodate the predicted increase in workload, a criminal history records check for applicants will be delayed by several more months.

There are over 5,000 health care employees in Alaska who care for dependent adults under the definition of 7 AAC 55.330(8), (12). Covered employees include those who work for certain alcoholism programs, State institutions such as API and Harborview, providers of adult residential care, providers of adult foster care, nursing home aides, hospital staff, personal care attendants, home health aides, and pioneer home staff. Since a criminal history records check under this statute would be permissive rather than mandatory, it is estimated that about half of the covered employees would be processed each fiscal year.

The provision of a criminal history record to a law enforcement or criminal justice agency is a relatively quick and simple process. Requests for records under AS 12.62.035 are much more time consuming and complicated to process.

The processing of a request for information under AS 12.62.035 begins with the interested party (or agency) sending a letter to Records and Identification explaining how they meet the definition of an "interested person" under the statute and requesting that records checks be performed on certain individuals. Two completed fingerprint cards, showing the interested party as the contributor, are submitted for processing.

The submitted fingerprint cards are searched in AAFIS for the existence of a fingerprint record. If a fingerprint record is identified, the Alaska Public Safety Information Network (APSIN) record for that person is then checked for the existence of a criminal history. The second fingerprint card, accompanied by a money order for \$14, (\$20 as of 3/1/90) is submitted by mail to the FBI Identification Division to check for an out-of-state criminal history.

Upon enactment of SCS CSHB 52 (Jud), if an Alaskan criminal history arrest record was verified by fingerprints, it would be reviewed to determine if a felony or applicable misdemeanor conviction resulted. If so, the interested party and the applicant would be notified of the charge and disposition by mail. Unfortunately, about 25% of arrest records in Alaska do not have disposition information. In these cases, the court records must be researched to determine the outcome of the case.

If the FBI fingerprint check results in the return of a "rap sheet", it must be carefully examined. Each arrest or offense reported must be checked for disposition information. A large proportion of the arrests shown on FBI rap sheets do not indicate a disposition. In this case the records division of the contributing state must be contacted by mail for disposition information.

FISCAL NOTE - SCS CSHB 52 (Jud)
Department of Public Safety
(Analysis, continued - Page 3 of 5)

Because of NLETS and NCIC regulations prohibiting the use of those systems for employment and licensing purposes, all of the contacts with out-of-state agencies must be conducted by mail. If a conviction is identified, both the interested party and the applicant would be notified of the findings by mail.

During the time that present AS 12.62.035 has been in effect, less than 1% of the criminal history record checks processed have resulted in convictions being reported to the interested party. However, about 11% of the records examined pursuant to requests under AS 12.62.035 contained serious criminal violations not reportable under present language. These have included convictions for attempted murder, felony assault, and drug sales.

Position Title Clerk IV		No. of Positions	Range/Step 9A	Barg. Unit G
Time Status PFT	Staff Months 6	Location Anchorage		Election District 7
Type of Expenditure		Justification		
1	2	3		
Salary*	9.8	Processing criminal history record checks under AS 12.62.035 involves actions by a Clerk II, AAFIS Operator I, Clerk IV, and AAFIS Operator II.		
Benefits*	3.8	The additional workload connected with SCS CSHB 52 (Jud) will require the equivalent of a full-time position and one part-time position.		
Premium Pay (Included in Above)	//////	In spite of the immediate effective date of the bill, unless it becomes law early in the session, its program impact will not likely occur in FY90.		
Other	//////	If this bill becomes law and this position is not approved, backlogs will increase; "interested persons" will not receive timely responses to their requests for criminal history records checks.		
Total Personal Services	//////	13.6		
Travel				
Contractual	Misc. \$.5	.5		
Commodities				
Equipment				
Other				
Total Cost		14.1		
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	14.1		
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS.				

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
 BRU DPS Statewide Support
 COMPONENT AK Criminal Records & ID

Page 4 of 5
 Revised Date

FY 91

Position Title Clerk IV		No. of Positions	Range/Step 9A	Barg. Unit G	
Time Status PFT	Staff Months 12	Location Anchorage		Election District 7	
Type of Expenditure		Justification			
Amount		<p>Processing criminal history record checks under AS 12.62.035 involves actions by a Clerk II, AAFIS Operator I, Clerk IV, and AAFIS Operator II.</p> <p>The additional workload connected with SCS CSHB 52 (Jud) will require the equivalent of a full-time position and one part-time position.</p> <p>In spite of the immediate effective date of the bill, unless it becomes law early in the session, its program impact will not likely occur in FY90.</p> <p>If this bill becomes law and this position is not approved, backlogs will increase; "interested persons" will not receive timely responses to their requests for criminal history records checks.</p>			
1	2				3
Salary*	20.8				////////////////////
Benefits*	11.7				////////////////////
Premium Pay (Included in Above)	////////////////////				////////////////////
Other	////////////////////				////////////////////
Total Personal Services	////////////////////				32.5
Travel					
Contractual	Line Hookup \$1.5 Misc. \$.3				1.8
Commodities					
Equipment	Micro \$6.2 Chair \$.8	7.0			
Other					
Total Cost		41.3			
Funding Source for Total Cost					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	41.3			
Program Receipts/GF	1005				
I-A Receipts	1007				
CIP Receipts	1061				
Other					
* Personal Services Salary and Benefits Costs are from PACS.					

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
 BRU DPS Statewide Support
 COMPONENT AK Criminal Records & ID

Page 5 of 5
Revised Date

FY 91

FISCAL NOTE

REQUEST:

Revision Date: January 17, 1990
Title: "An Act relating to access
...of all felony convictions..."
Sponsor: Senate Judiciary
Requestor: Senate Judiciary

Agency Affected: Department of Law
BRU: Legal Services

Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: January 17, 1990
Approved by Commissioner: Richard I. Pegues / FOR / Date: January 17, 1990
Agency: Department of Law

Distribution (by preparer) :

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SCSCSHB 52 (JUD)

The Senate Judiciary Committee Substitute adds two new sections to previous versions of the bill that (1) define the term "dependent adult", and (2) that provide that the Department of Education shall request and receive certain criminal records from the Department of Public Safety for a person who renews the person's certification as a teacher or administrator if such records were not requested and received when the person was originally certified. This section applies only to the first renewal of certification. Currently, there are more than 20,000 certified teachers and administrators in Alaska. Recertification is required every six years.

Other, existing provisions of the bill would require that the Department of Education request and receive records of all felony convictions, convictions involving contributing to the delinquency of a minor, and convictions involving any sex crimes of a person seeking initial certification as a teacher or administrator. Approximately 4,000 persons will probably apply for initial certification during the coming year.

The Department of Law is not usually involved in the certification process and, consequently, the bill will not have a fiscal impact on the department. The bill could, however, have a fiscal impact on the Department of Education because of the bill's records-keeping requirements.

FISCAL NOTE

REQUEST:

Revision Date: 1/15/90
Title: Access by an interested person to criminal records.
Sponsor: Senate Judiciary
Requestor: Senate Judiciary

Agency Affected: Education
BRU: Education Finance & Support Services
Components: District Support

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	28.7	29.5	30.2	31.0	31.8	32.2
TRAVEL						
CONTRACTUAL	7.2	6.2	6.2	6.2	6.2	6.2
SUPPLIES	1.5	1.5	1.5	1.5	1.5	1.5
EQUIPMENT	10.0	-0-	-0-	-0-	-0-	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	47.4	37.2	37.9	38.7	39.5	39.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND /PR	47.4	37.2	37.9	38.7	39.5	39.9
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: Mary Hakala Phone: 465-2800
Division: Commissioner's Office Date: 1/15/90
Approved by Commissioner: William G. Demmert Date: 1/15/90
Agency: Education

Distribution (by preparer):

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

DEPARTMENT OF EDUCATION

FISCAL NOTE ANALYSIS

Revised 1/15/90

SCS for CSHB 52 (Judiciary) Access by an interested person to criminal records..

Personal Services

1 FT Clerk Typist III, Range 8 A/B	FY91: 28.7
(Cost increase assumes merit increases)	FY92: 29.5
	FY93: 30.2
	FY94: 31.0
	FY95: 31.8
	FY96: 32.2

This position will be responsible for the tracking and filing of all background checks for initial and one-time renewal applicants for teacher certification in Alaska.

Contractual

Computer programming and system maintenance to integrate background criminal check into teacher certification data base: 5.0

Telephone, postage: 1.2

Development of form for distribution to applicants, "Certification pending background check": .5

Commodities

Supplies associated with position and function: 1.0

Annual cost of "Certification pending background check" forms for applicants: .5

Equipment (first year cost only)

Computer terminal and printer to meet paperwork/notification requirements and data entry into teacher certification data base: 6.0

File cabinet for records storage, desk, chair, phone & partition walls for position: 9.9

Position Title Clerk Typist III		No. of Positions 1	Range/Step BA/B	Barg. Unit GGU
Time Status Full Time	Staff Months 12.0	Location Juneau		Election District
Type of Expenditure		Justification		
1	2	3		
Salary	19.8	The full time clerical position will handle administrative functions associated with implementation of HB 52, insuring that background checks are properly completed by each initial and one-time renewal applicant for teacher certification in Alaska.		
Benefits	8.9			
Premium Pay				
Other				
Total Personal Services	28.7			
Travel		All non-personnel costs associated with this position are included in the HB 52 fiscal note.		
Contractual				
Commodities				
Equipment				
Other				
Total Cost				
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
I-A Receipts	1006			
CIP Receipts	1061			
Other	GF/PR	28.7		

**Request For
New Position**

Agency EDUCATION
 BRU EDUCATION FINANCE & SUPPORT
 Component DISTRICT SUPPORT

FY 90

Page 3 of 3
 Revised Date 1/15/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Access to criminal records by
the Department of Education
Sponsor: Zawacki
Requestor: House HESS

Agency Affected: Education
BRU: Education Finance & Support
Services
Components: District Support

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		14.6	14.6	14.6	14.6	14.6
TRAVEL						
CONTRACTUAL		4.0	4.0	3.0	3.0	3.0
SUPPLIES		5	5	5	5	5
EQUIPMENT		4.5				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		23.6	19.1	18.1	18.1	18.1

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

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND /PR		23.6	19.1	18.1	18.1	18.1
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Costs include 1 part time clerktypist, postage and phone costs, general office supplies, and minimal computer programming costs to upgrade system to integrate background check data into existing teacher certification data base. In the first year, purchase of one word processing terminal and file cabinet storage capacity is necessary.

Prepared by: Mary Hakala Phone: 465-2800
Division: Commissioner's Office Date: March 31, 1989

Approved by Commissioner: William G. Demmert Date: March 31, 1989-
Agency: Education

Distribution (by preparer):

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

Position Title Clerk Typist III		No. of Positions 1	Range/Step 8B	Barg. Unit GGU
Time Status PT	Staff Months 6.0	Location Juneau		Election District
Justification				
The part time clerical position will handle administrative functions associated with implementation of HB 52, insuring that background checks are properly completed by each initial applicant for teacher certification in Alaska.				
Type of Expenditure		Amount		
1	2	3		
Salary	9.8			
Benefits	4.8			
Premium Pay				
Other				
Total Personnel Services		14.6		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost				
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
I-A Receipts	1006			
CIP Receipts	1061			
Other	GF/PR	14.6		

**Request For
New Position**

Agency Education
 BRU Education Finance & Support Services
 Component District Support

Page 2 of 2
 Revised Date

FY 90

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "An Act relating to access to criminal records by the Department of Education..." BRU: Prosecution
 Sponsor: Repr. Zawacki Components: Criminal Justice Litigation
 Requestor: Repr. Zawacki

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues / Director Phone: 465-3672
 Division: Administrative Services Division Date: February 1, 1989
Richard I. Pegues / FOR
 Approved by Commissioner: Grace Berg Schaible, Atty. Gen. Date: February 1, 1989
 Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 52

This bill amends AS 12.65.035 to provide that the Department of Education shall request and receive criminal records for a person seeking certification as a teacher or administrator. The bill further provides that the Department of Education shall request such records on behalf of school districts, which employ persons serving in positions having a supervisory or disciplinary power over a minor. The safekeeping and administration of criminal records are handled by the Department of Public Safety. Consequently, this bill will not have a fiscal impact on the Department of Law. The bill could, however, have a fiscal impact on the Department of Education for administering requests from school districts for criminal history records. Existing statute permits school districts to request this information directly from the Department of Public Safety, without the second level of administration proposed in the bill.

FISCAL NOTE

REQUEST:

Revision Date: 5/5/89
Title: Access to Criminal Records

Agency Affected: Public Safety
BRU: DPS Administration

Sponsor: Representative Zawacki
Requestor: House Rules

Component: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	2.2	32.5	32.5	32.5	32.5	32.5
TRAVEL						
CONTRACTUAL		1.8	.3	.3	.3	.3
SUPPLIES						
EQUIPMENT		7.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2.2	41.3	32.8	32.8	32.8	32.8

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	2.2	41.3	32.8	32.8	32.8	32.8
FEDERAL FUNDS						
OTHER						
TOTAL	2.2	41.3	32.8	32.8	32.8	32.8

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

The Records and Identification Section operates the Alaska Automated Fingerprint Identification System (AAFIS) and maintains criminal history record information used by police and other criminal justice agencies. Because of the complexity of the research required to process criminal history record checks under AS 12.62.035, a Clerk IV will be required to handle the 2,000 requests expected from the Department of Education for initial certifications and 2,500 for health care employees each year. Existing AAFIS staff are not able to keep current with their present workload. Without additional staff to accommodate the predicted increase in workload, a criminal history records check for applicants may be delayed by several months.

(Analysis continued on attached)

JML
5/5/89 Prepared by: M. J. Clemens
Division: Administrative Services

Phone: 465-4336
Date: 5/5/89

Approved by Commissioner: Ja. H. English Date: 5/5/89
Agency: Department of Public Safety

Department of Public Safety
FISCAL NOTE - CSHB 52 (Fin)
(Analysis, continued - Page 2 of 4)

The Department of Education has estimated that they will submit about 2,000 requests for criminal history record checks annually in connection with the initial certification of school teachers in Alaska. These records checks are in addition to those requested by other interested persons under AS 12.62.035, such as the employers of day care providers. The provision of a criminal history record to a law enforcement or criminal justice agency is a relatively quick and simple process. Requests for records under AS 12.62.035 are much more time consuming and complicated to process.

There are over 5,000 health care employees in Alaska who care for dependent adults under the definition of 7 AAC 55.330(8), (12). Covered employees include those who work for certain alcoholism programs, State institutions such as API and Harborview, providers of adult residential care, providers of adult foster care, nursing home aides, hospital staff, personal care attendants, home health aides and pioneer home staff. Since a criminal history records check under this statute would be permissive rather than mandatory, it is estimated that about half of the covered employees would be processed each fiscal year.

The processing of a request for information under AS 12.62.035 begins with the interested party (or agency) sending a letter to Records and Identification explaining how they meet the definition of an "interested person" under the statute and requesting that records checks be performed on certain individuals. Two completed fingerprint cards, showing the interested party as the contributor, are submitted for processing.

The submitted fingerprint cards are searched in AAFIS for the existence of a fingerprint record. If a fingerprint record is identified, the Alaska Public Safety Information Network (APSIN) record for that person is then checked for the existence of a criminal history. The second fingerprint card, accompanied by a money order for \$14, is submitted by mail to the FBI Identification Division to check for an out-of-state criminal history.

Upon enactment of CSHB 52 (Fin), if an Alaskan criminal history arrest record was verified by fingerprints, it would be reviewed to determine if a felony or applicable misdemeanor conviction resulted. If so, the interested party and the applicant would be notified of the charge and disposition by mail. Unfortunately, about 25% of arrest records in Alaska do not have disposition information. In these cases, the court records must be researched to determine the outcome of the case. This can be a very time consuming process.

If the FBI fingerprint check results in the return of a "rap sheet", it must be carefully examined. Each arrest or offense reported must be checked for disposition information. A large proportion of the arrests shown on FBI rap sheets do not indicate a disposition. In this case the records division of the contributing state must be contacted by mail for disposition information.

Because of NLETS and NCIC regulations prohibiting the use of those systems for employment and licensing purposes, all of the contacts with out-of-state agencies must be conducted by mail. If a conviction is identified both the interested party and the applicant would be notified of the findings by mail. The fingerprint cards are returned to the contributor.

Department of Public Safety
 FISCAL NOTE - CSHB 52 (Fin)
 (Analysis, continued - Page 3 of 4)

During the time that present AS 12.62.035 has been in effect, less than 1% of the criminal history record checks processed have resulted in convictions being reported to the interested party. However, about 11% of the records examined pursuant to requests under AS 12.62.035 contained serious criminal violations not reportable under present language. These have included convictions for attempted murder, felony assault, and drug sales.

Releasing conviction information as prescribed by CSHB 52 (Fin) will change the search time required in gathering and reporting arrest with convictions information to interested parties. The following are the computations for the times required for out-of-state checks:

- 1) 18% of the people checked have FBI rap sheets with arrest information.
- 2) 57% of these out-of-state records do not have disposition information.
- 3) Of the 4,500 estimated initial certification, 810 will have FBI rap sheets.
- 4) 15% are felonies and 60% of these do not have disposition information.
- 5) Therefore, $((810 \times .15) \times .60) = 73$ people with felony records that will require extensive researching.
- 6) 39% of the charges on the FBI rap sheet are misdemeanors.
- 7) 49% of these do not have disposition information, and 10% of the 49% involve contributing to the delinquency of a minor, and sex charges.
- 8) Therefore, $((810 \times .39) \times .10 \times .49) = 15$ people that will require extensive researching.
- 9) 46% we are not able to determine if the charge on the FBI rap sheet is a felony or misdemeanor. Of these, 63% do not have disposition information.
- 10) The following applies, $((810 \times .46) \times .63) = 235$ people requiring extensive researching.

Function	# Cards	Seconds	Hours
Search AAFIS	4,500	540	675
APSIN Search	4,500	96	120
AK Dispo Research	124*	4,080	140
Sort and Mail	9,000	14	35
Extensive research	323**	9,060	813
Research FBI rcds	139***	1,800	70
Transfer FBI raps	462	189	24
Sort other FBI	4,038	64	72
Total processing time			1,949

* $(4,500 \times .11) \times .25 = 124$

** $73 + 15 + 235 = 323$

*** $(4,500 \times .18) = 810 \times .57 = 462 - 323 = 139$

Position Title Clerk IV		No. of Positions 1	Range/Step 9A	Barg. Unit G
Time Status PFT	Staff Months 12	Location Anchorage		Election District 7
Type of Expenditure		Amount		
1	2	3		
Salary*	20.8	////////////////////		
Benefits*	11.7	////////////////////		
Premium Pay (Included in Above)	////////////////////	////////////////////		
Other	////////////////////	////////////////////		
Total Personal Services	////////////////////	32.5		
Travel				
Contractual	line hook up - \$1.5	1.8		
Commodities				
Equipment	Micro \$6.2 chair \$.8	7.0		
Other				
Total Cost		41.3		
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	41.3		
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS Scenario #2.				
Justification				
Processing criminal history record checks under AS 12.62.035 involves actions by a Clerk II, AAFIS Operator I, Clerk IV, and AAFIS Operator II.				
The additional workload connected with HB 52 will require the equivalent of a full-time position.				
Initial furniture and equipment costs would not be needed in future years.				
Due to the immediate effective date of the bill, assuming it becomes law about May 1, two months of personal services would be needed to pay unbudgeted overtime to existing staff who would have to handle requests prior to classification, recruitment, selection, and training of a new position.				
Without approval of this position, backlogs will develop; "interested persons" will not receive timely responses to their requests for criminal history records checks.				

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
 BRU DPS Administration
 COMPONENT Administrative Services

Page 4 of 4
Revised Date

FY 90

Effect of amendments. — The 1985 amendment substituted "under AS 12.30" for ", including the right to arrest the de- fendant as provided in AS 12.30.020" and "by law" for "therein."

Chapter 62. Criminal Justice Information Systems Security and Privacy.

Section

35. Access to certain crime information

70. Definitions

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)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

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 an 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;

(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