

S B

225

Original sponsor: Duncan

*JD "municipal" on
page 2*

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 225 ()
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 to criminal records; and
7 providing for an effective date."

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

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

10 (a) Notwithstanding any other provision of law, an interested
11 person [AS DEFINED IN (e) OF THIS SECTION] may request from the De-
12 partment of Public Safety [COMMISSION] records of all felony con-
13 victions, and all convictions involving contributing to the delin-
14 quency of a minor, misconduct involving a controlled substance, or
15 [AND ANY] sex crimes, of a person who holds or applies for a position
16 as an employee of a school district or regional educational attendance
17 area, or a position in which the person has or would have supervisory
18 or disciplinary power over a minor. The Department of Public Safety
19 [COMMISSION] shall disclose [AUTHORIZE THE DISCLOSURE OF] the informa-
20 tion to the requesting interested person and shall provide a copy of
21 the information to the person who is the subject of the request.

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

23 (e) As used in this section

24 (1) "contributing to the delinquency of a minor" means a
25 conviction for a violation or attempted violations of AS 11.51.-
26 130(a)(1), (3), or (5); former AS 11.40.130; or the laws of another
27 jurisdiction if the offense would have been a crime in this state
28 under AS 11.51.130(a)(1), (3), or (5) or former AS 11.40.130 if com-
29 mitted in the state;

1 (2) "interested person" means a ^{or municipal} state agency, school dis-
2 trict, regional educational attendance area, ^A corporation, company,
3 partnership, firm, association, organization, business trust, or
4 society, as well as a natural person, that employs or solicits the
5 employment of a person to serve with or without compensation in a
6 position at a public school, or in which the person has or would have
7 supervisory or disciplinary power over a minor;

8 (3) "misconduct involving a controlled substance" means a
9 conviction for a violation or attempted violation of AS 11.71.010 -
10 11.71.070, former AS 17.10.010, or former AS 17.12.010; or the laws of
11 another jurisdiction if the offense would have been a crime in this
12 state under one of the sections listed in this paragraph if committed
13 in the state;

14 (4) "sex crime" means a conviction for a violation or
15 attempted violation of AS 11.41.410 - 11.41.470, AS 11.61.110(a)(7),
16 or AS 11.66.100 - 11.66.130; former AS 11.15.120, 11.15.134, or 11.-
17 15.160; former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 -
18 11.40.420; or the laws of another jurisdiction if the offense would
19 have been a crime in this state under one of the sections listed in
20 this paragraph if committed in the state.

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

22 (f) The Department of Education shall request and receive re-
23 cords under (a) of this section for a person seeking initial certi-
24 fication under AS 14.20.020.

25 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
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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

enforcement and includes the child support enforcement agency created by AS 47.23. (§ 1 ch 161 SLA 1972; am § 4 ch 38 SLA 1976; am § 31 ch 126 SLA 1977)

Revisor's notes. — Reorganized in 1984 to alphabetize the defined terms. out above to correct a minor error in the main pamphlet.

Editor's notes. — This section is set

Chapter 65. Coroner's and Medical Examiners.

Section	Section
20. Coroner's power to order examinations and inquests	40. Inquiry into cause of death

Sec. 12.65.020. Coroner's power to order examinations and inquests. (a) When a person dies unattended by a physician, or when no physician is prepared to execute the certificate of death prescribed by AS 18.50 (Vital Statistics Act), the coroner assigned to serve the place where the death occurs may, by written order, direct a medical examiner to view the remains of the deceased person and to perform the post mortem examination, including an autopsy, necessary to make a proper determination of the cause of death and to execute the prescribed death certificate. When the medical examiner has completed the examination, the examiner shall, without delay, submit a report of the findings and conclusions to the coroner.

(b) The coroner may order an inquest under this chapter if the findings and conclusions of the medical examiner, together with other information available to the coroner, warrant the inquest. Otherwise the coroner shall enter an order dispensing with the inquest and shall record the certificate of death as prescribed by law. (§ 10.02 ch 34 SLA 1962; am § 3 ch 24 SLA 1966; am § 1 ch 107 SLA 1982; am § 1 ch 26 SLA 1988)

Effect of amendments. — The 1988 amendment designated the formerly undesignated first two sentences as subsection (a) and the formerly undesignated last two sentences as subsection (b), and substituted "AS 18.50 (Vital Statistics Act)" for "the Vital Statistics Act" in the first sentence in subsection (a), "When the medical examiner has completed" for "Upon the completion of" in the second sentence in subsection (a), and "may" for "shall" in the first sentence in subsection (b).

Sec. 12.65.040. Inquiry into cause of death. (a) When informed that a person has been killed by another or has died under circumstances that afford a reasonable ground to suspect that the death is the result of a crime or suicide, the coroner may inquire under AS 12.65.050 — 12.65.090 into the cause and manner of death.

(b) In deciding whether to conduct an inquest, the coroner shall make a preliminary examination or direct a peace officer to conduct the examination and report findings. On the basis of the preliminary

(2) "benefit" means a present or future gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary;

(3) "building", in addition to its usual meaning, includes any propelled vehicle or structure adapted for overnight accommodation of persons or for carrying on business; when a building consists of separate units, including apartment units, offices, or rented rooms, each unit is considered a separate building;

(4) "cannabis" has the meaning ascribed to it in AS 11.71.900(10), (11), and (14);

(5) "conduct" means an act or omission and its accompanying mental state;

(6) "controlled substance" has the meaning ascribed to it in AS 11.71.900(4);

(7) "correctional facility" means premises, or a portion of premises, used for the confinement of persons under official detention;

(8) "credit card" means any instrument or device, whether known as a credit card, credit plate, courtesy card, or identification card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining property or services on credit;

(9) "crime" means an offense for which a sentence of imprisonment is authorized; a crime is either a felony or a misdemeanor;

(10) "culpable mental state" means "intentionally", "knowingly", "recklessly", or with "criminal negligence", as those terms are defined in (a) of this section;

(11) "dangerous instrument" means any deadly weapon or anything which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is capable of causing death or serious physical injury;

(12) "deadly force" means force which the person uses with the intent of causing, or uses under circumstances which the person knows create a substantial risk of causing, death or serious physical injury; "deadly force" includes intentionally discharging or pointing a firearm in the direction of another person or in the direction in which another person is believed to be and intentionally placing another person in fear of imminent serious physical injury by means of a dangerous instrument;

(13) "deadly weapon" means any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive;

(14) "deception" means to knowingly

(A) create or confirm another's false impression which the defendant does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression which the defendant previously has created or confirmed;

Resolution of the Alaska Municipal League

Resolution No. 89-55

**A RESOLUTION RECOMMENDING ADOPTION OF AN ACT
RELATING TO GOVERNMENT LIABILITY FOR DAMAGE OR INJURY
RESULTING FROM HAZARDOUS RECREATIONAL ACTIVITIES**

WHEREAS, the Alaska Municipal League urges the State to exercise its responsibility to provide a broad spectrum of recreation opportunities for all Alaskans, and

WHEREAS, certain common recreational activities have an inherent risk of injury, which under current state statutes limits the State and its local governments in their ability to provide recreational opportunities to Alaska's citizens, and

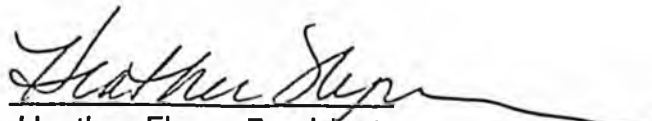
WHEREAS, municipalities are having to reduce or close recreational services because liability insurance is either unavailable or too expensive, and

WHEREAS, voluntary organizations help provide communities with a broad spectrum of recreational activities not being offered by the public sector, and establishing a cooperative relationship under the local government would enable them to provide programs they might not otherwise be able to provide, and

WHEREAS, the President's Commission on Americans Outdoors has recommended that the standard of care for which an organization or government should be responsible in providing recreational opportunity be shifted from "mere negligence" to "gross negligence";

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Alaska State Legislature to adopt an act relating to government liability for damage or injury resulting from hazardous recreational activities.

Adopted this 18th day of November 1988 in Fairbanks, Alaska.


Heather Flynn, President

ATTEST:


Scott A. Burgess, Executive Director

Chapter 20. Teachers and School Officials.

Article

1. Teacher Certification (§§ 14.20.010 — 14.20.040)
2. Employment and Tenure (§§ 14.20.095 — 14.20.215)
3. Salary Scales (§ 14.20.220)
4. Sabbatical Leave (§§ 14.20.280 — 14.20.350)
5. Professional Teaching Practices Act (§§ 14.20.370 — 14.20.510)
6. Negotiation and Mediation (§§ 14.20.550 — 14.20.610)
7. Interstate Agreement on Qualification of Educational Personnel (§§ 14.20.620 — 14.20.650)

Article 1. Teacher Certification.

Section

10. Teacher certificate required
20. Requirements for issuance of certificate

Section

30. Causes for revocation and suspension
40. Applicability of the Administrative Procedure Act

Collateral references. — 68 Am. Jur. 2d Schools, §§ 128-143.

78 C.J.S. Schools and School Districts, §§ 154-182.

Matters proper for consideration in appointment of teachers. 94 ALR 1484.

Tests of moral character of fitness as requisite to issuance of teacher's license or certificate. 96 ALR2d 536.

Bias of members of license revocation board. 97 ALR2d 1210.

Actionability of statements imputing inefficiency or lack of qualification to public school teacher. 40 ALR3d 490.

Self-defense or defense of another as justification, in dismissal proceedings, for use or threat of use of force against student. 37 ALR4th 842.

Sec. 14.20.010. Teacher certificate required. A person may not be employed as a teacher in the public schools of the state unless that person possesses a valid teacher certificate except that a person who has made application to the department for a teacher certificate or renewal of a teacher certificate which has not been acted upon by the department may be employed as a teacher in the public schools of the state until the department has taken action on the application, but in no case may employment without a certificate last longer than three months. (§ 37-5-3 ACLA 1949; am § 9 ch 98 SLA 1966; am § 1 ch 165 SLA 1976)

Sec. 14.20.020. Requirements for issuance of certificate.
(a) The department shall issue a teacher certificate to every person who meets the requirements in (b) and (c) of this section.
(b) A person is not eligible for a teacher certificate unless that person has received at least a baccalaureate degree from an institution of higher education accredited by a recognized regional accrediting association or approved by the commissioner. However, this subsection is not applicable to

(1) persons employed in the state public school system on September 1, 1962;

(2) persons issued an emergency certificate during a situation which, in the judgment of the commissioner, requires the temporary issuance of a certificate to a person not otherwise qualified.

(c) The board may establish by regulation additional requirements for the issuance of certificates, including the fees to be charged for each certificate.

(d) The board may by regulation establish various classes of certificates.

(e) The commissioner of administration shall separately account for teacher certification fees that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this section and to support the activities of the Professional Teaching Practices Commission under AS 14.20.460, 14.20.470, and 14.20.500. (§ 37-5-4 ACLA 1949; am § 1 ch 76 SLA 1962; am § 10 ch 98 SLA 1966; am §§ 13, 14 ch 32 SLA 1971; am §§ 19, 20 ch 138 SLA 1986)

Effect of amendments. — The 1986 amendment added "including the fees to be charged for each certificate" at the end of subsection (c) and added subsection (e).

Sec. 14.20.030. Causes for revocation and suspension. The commissioner or the Professional Teaching Practices Commission may revoke or suspend a certificate only for the following reasons:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude;

(3) substantial noncompliance with the school laws of the state or the regulations of the department; or

(4) upon a determination by the Professional Teaching Practices Commission that there has been a violation of ethical or professional standards or contractual obligations. (§ 11 ch 98 SLA 1966; am § 1 ch 9 SLA 1975; am § 1 ch 103 SLA 1976)

NOTES TO DECISIONS

Quoted in *Watts v. Seward School Bd.*,
Sup. Ct. Op. No. 380 (File No. 427), 421
P.2d 586 (1966).

CRIMES FOR WHICH CONVICTION RECORDS

MAY BE RELEASED UNDER AS 12.62.035

(Revised 1-23-89)

AS 11.41.410	Sexual Assault in the First Degree
AS 11.41.420	Sexual Assault in the Second Degree
AS 11.41.425	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
(former) AS 11.15.120	Rape
(former) AS 11.15.134	Lewd or Lascivious Acts Toward Children
(former) AS 11.15.160	Assault with Intent to Rape

*Misdemeanors

(former) AS 11.40.080*	Indecent Exposure and Exhibition
(former) AS 11.40.110	Incest
(former) AS 11.40.130*	Contributing to the Delinquency of a Child
(former) AS 11.40.200-.420*	Prostitution Related Offenses
(former) AS 11.41.430	Sexual Assault 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.

January 5, 1989

RECEIVED JAN 06 1989

Dear *Senator Duncan,*

Re: BACKGROUND CHECKS/QUALIFICATIONS OF SUBSTITUTE TEACHERS TO BE DISCUSSED WITH THE JUNEAU SCHOOL DISTRICT ON JANUARY 12, 4:30 P.M., IN THE SCHOOL DISTRICT CONFERENCE ROOM.

We are alarmed at a legal system and a school system which allowed a person who was indicted on three counts of selling cocaine to substitute teach in the classroom during November, 1988, at the Floyd Dryden Middle School.

Mr. Tony Cunningham was indicted for selling cocaine on May 9, 1988, in Ketchikan; he pleaded "no contest" on July 1, 1988; he is now serving time in the Ketchikan Correctional Center. His release agreement allowed him to be employed between his "no contest" plea on July 1, 1988, and his imprisonment on January 4, 1989. Mr. Cunningham's employment should not have involved our children. There is no guarantee to parents that Mr. Cunningham's involvement in cocaine did not extend to our children in the classroom. Our children have been the prime targets of drug dealers.

Parents want to have people of good character teaching their children, and a drug dealer does not qualify. The following questions arise:

1. Does the substitute teacher employment application form ask for criminal activity that is pending in our Alaska legal system? Does it ask for past criminal activity for which a sentence has been served? How does the school system treat each of these cases for employment?
2. Is each substitute teacher applicant interviewed? By whom?
3. Is there a background check with the Alaska State Troopers or the Juneau City Police?
4. If a person is hired to substitute teach, is there a clause to allow dismissal if a this person commits a crime during his/her employment?
5. If a child is influenced by a substitute teacher of criminal background, who is liable? How much responsibility does the school district hold for the hiring of its substitute teachers?
6. If a person has committed a drug-related activity, why not make a drug test a part of employment? Greens Creek Mining demands this of their employees for a safe work place. Is the safety of our children as important?

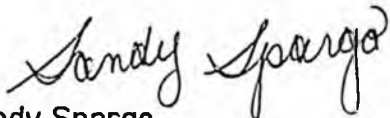
*Raymond
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A meeting has been arranged with Dr. Bruce Johnson, Superintendent of Schools/Juneau, on January 12, 4:30 p.m., in the school district conference room at 1208 Glacier Avenue for the purpose of discussing what steps can be taken by the school district and by our legal system to prevent criminals from substitute teaching our children.

You are invited to attend this meeting. Please call me at 586-6122 in the evening to let me know if you will be attending this meeting. Your input would be very valuable to us.

Sincerely,



Sandy Spargo
ALASKANS FOR DRUG-FREE YOUTH/JUNEAU
965 Goldbelt
Juneau, Alaska 99801

Louise Howeter
JUSTICE FOR CHILDREN/JUNEAU
P.O. Box 34285
Juneau, Alaska 99803

Alaska State Legislature



SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811-3100
(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR —
HEALTH EDUCATION
& SOCIAL SERVICES
BUDGET & AUDIT
BANKING &
ECONOMIC
DEVELOPMENT

MEMORANDUM

MARCH 21, 1989

TO: SENATOR JAN FAIKS, CHAIR
SENATE JUDICIARY COMMITTEE

FROM: SENATOR JIM DUNCAN

SUBJECT: SENATE BILL 225, RELATING TO ACCESS TO CRIMINAL RECORDS

SB 225 EXPANDS THE CRIMES WHICH CAN BE REPORTED TO SCHOOL DISTRICTS AND OTHER EMPLOYERS TO INCLUDE ALL CRIMINAL CONVICTIONS. PRESENTLY STATE LAW ONLY ALLOWS CRIMES SUCH AS CONTRIBUTING TO THE DELINQUENCY OF A MINOR AND SEX CRIMES TO BE REPORTED TO POTENTIAL EMPLOYERS. THESE CRIMES CAN BE REVEALED ONLY IF A PERSON WOULD BE HIRED IN A POSITION WITH DIRECT SUPERVISORY OR DISCIPLINARY POWER OVER A MINOR.

I FEEL IT IS APPROPRIATE THAT THE CRIMINAL RECORDS OF ALL POTENTIAL EMPLOYEES BE AVAILABLE FOR REVIEW BY SCHOOL DISTRICTS AND OTHER EMPLOYERS. THIS LEGISLATION WILL ADDRESS A PROBLEM WHICH RECENTLY BECAME AN ISSUE IN JUNEAU. THE SITUATION DEALT WITH A PERSON WHO WAS HIRED AS A SUBSTITUTE TEACHER EVEN THOUGH THAT PERSON HAD PLED NO CONTEST TO DEALING COCAINE IN KETCHIKAN. IN CHECKING ON THAT PARTICULAR ISSUE, I FOUND A LOT OF AREAS WHICH NEEDED STRENGTHENING IN THE CURRENT SYSTEM OF RECORDS CHECKING.

SB 225 WILL BROADEN THE KINDS OF EMPLOYEES FOR WHICH CRIMINAL RECORDS CAN BE REQUESTED TO INCLUDE ALL SCHOOL DISTRICT EMPLOYEES REGARDLESS OF THEIR SUPERVISORY ROLE OVER CHILDREN. I DO NOT FEEL THERE IS ANY REASON FOR US TO TAKE UNNECESSARY RISKS WHEN HIRING SCHOOL PERSONNEL.

SB 225 WILL ALSO REQUIRE THAT THE DEPARTMENT OF EDUCATION REVIEW CRIMINAL RECORDS AS A PART OF THE INITIAL TEACHER CERTIFICATION PROCESS. PRESENTLY, THE TEACHER CERTIFICATION SECTION IN THE DEPARTMENT OF EDUCATION IS RESPONSIBLE FOR REVIEWING AND CERTIFYING A TEACHER'S QUALIFICATIONS, BUT EACH SCHOOL DISTRICT MUST INDEPENDENTLY REQUEST A CHECK OF POTENTIAL TEACHERS' CRIMINAL RECORDS. THE INFORMATION I HAVE FROM THE

SENATOR JAN FAIKS
MARCH 21, 1989
PAGE 2

DEPARTMENT OF EDUCATION INDICATES THAT ONLY THE SEVEN LARGER SCHOOL DISTRICTS ROUTINELY DO RECORDS CHECKS ON TEACHERS PRIOR TO EMPLOYMENT.

SINCE IN MANY CASES TEACHERS APPLY FOR CERTIFICATION BY THE DEPARTMENT OF EDUCATION PRIOR TO APPLYING FOR A JOB AT A PARTICULAR SCHOOL DISTRICT THIS BILL ALSO WOULD REQUIRE THE DEPARTMENT OF EDUCATION A RECORDS CHECK AT THAT TIME. I BELIEVE THAT HAVING THE CRIMINAL RECORDS CHECK DONE CENTRALLY WILL ELIMINATE DUPLICATE CHECKS DONE BY SCHOOL DISTRICTS WHEN A TEACHER APPLIES AT MORE THAN ONE DISTRICT. IT WILL BE MORE EFFECTIVE, MORE EFFICIENT, AND LESS HASSLE FOR TEACHERS BECAUSE ONLY ONE RECORDS CHECK WILL BE NECESSARY.

I WOULD APPRECIATE YOUR SCHEDULING SB 225 FOR A HEARING AS SOON AS POSSIBLE.

ATTACHMENTS

BILL NO: SB 225

DATE: April 13, 1989

TITLE: An Act relating to access to criminal records; and providing for an effective date.

CONTACT: Gayle A. Horetski
Deputy Commissioner
465-4322

DEPARTMENT OF
PUBLIC SAFETY
/
POSTAL

The Department of Public Safety supports SB 225 because it would allow the Department to report to an "interested person", as defined in AS 12.62.035(e), the existence of any criminal convictions of individuals employed or seeking employment in a position that would give the person supervisory or disciplinary power over minors. Under present law, an "interested person" can receive information about only limited types of criminal convictions. Many serious criminal convictions, including those for murder and kidnapping, cannot be reported under existing AS 12.62.035. As under existing law, it would be up to the employer to decide which criminal convictions disqualify a person from serving in a paid or unpaid position involving responsibility for minors.


Arthur English
Commissioner

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: Access to Criminal Records BRU: DPS Administration
 Sponsor: Senator Duncan Component: Administrative Services
 Requestor: Senate Judiciary

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	3.0	18.2	18.2	18.2	18.2	18.2
TRAVEL						
CONTRACTUAL		1.8	.3	.3	.3	.3
SUPPLIES						
EQUIPMENT		7.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	3.0	27.0	18.5	18.5	18.5	18.5

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	3.0	27.0	18.5	18.5	18.5	18.5
FEDERAL FUNDS						
OTHER						
TOTAL	3.0	27.0	18.5	18.5	18.5	18.5

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

SB 225 will substantially increase the workload of the Records and Identification Section, which operates the Alaska Automated Fingerprint Identification System (AAFIS). Because of the complexity of the research required to process criminal history record checks under AS 12.62.035, a part-time Clerk IV will be required to handle the 4,500 requests expected from the Department of Education annually.

Prepared by: M. J. Clemens Phone: 465-4336
 Division: Administrative Services Date: 4/12/89

Approved by Commissioner: Arthur English Date: 4/12/89
 Agency: Department of Public Safety

Department of Public Safety
SB 225 FISCAL NOTE
(Analysis, continued - Page 2)

The Department of Education has estimated that they will submit about 4,500 requests for criminal history record checks annually in connection with the certification and recertification 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.

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 SB 225, if an Alaskan criminal history arrest record was verified by fingerprints, it would be reviewed to determine if a 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.

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.

Department of Public Safety
SB 225 FISCAL NOTE
(Analysis, continued - Page 3)

Releasing all conviction information, as allowed by SB 225, is expected to reduce the amount of search time required to gather and report conviction information to interested parties from 151 minutes for out-of-state checks to about 30 minutes. The number of out-of-state checks found to have arrest information is about 18%. About 57% of the arrests on the FBI rap sheets do not show final disposition information. These out-of-state arrests will need to be researched to acquire the final disposition information. The information from the out-of-state agencies and the FBI rap sheet will have to be transferred to a form that will report only arrest with conviction information for mailing to the interested party and the applicant. The time required to conduct an in-state check is expected to decrease from 68 minutes to about 30 minutes. However, the number of state checks will increase considerably under the bill.

In summary, the number of out-of-state and in-state records that will require tracking, researching, and reporting will increase, but the amount of time required to conduct these tasks will decrease somewhat. Existing AAFIS staff are not able to keep up with their present workload. The primary objective of DPS's Records and Identification Section is to maintain and update criminal history record information used by police and other criminal justice agencies. While processing applicant criminal history record checks is an important function, it must take secondary priority to the Department's law enforcement mission. Without additional staff to accommodate the predicted increase in workload, the effectiveness of a criminal history records check for applicants would be diluted by substantial delays--which may reach several months.

At a minimum, an additional part-time clerk will be required to handle the increased workload expected to result from the passage of SB 225.

Position Title Clerk IV		No. of Positions	Range/Step 9A	Barg. Unit G
Time Status PPT	Staff Months 7.5	Location Anchorage		Election District 7
Type of Expenditure		Justification		
Amount		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.		
1	2	3		
Salary*	13.0	////		
Benefits*	5.2	////		
Premium Pay (Included in Above)	////	////	The additional workload connected with SB 225 will require the equivalent of a part-time position (23.5 hours/week).	
Other	////	////		
Total Personal Services	////	18.2	Initial furniture and equipment costs would not be needed in future years.	
Travel				
Contractual	line hook up - \$1.5	1.8		
Commodities				
Equipment	Micro \$6.2 chair \$.8	7.0		
Other			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.	
Total Cost		27.0	Without approval of this position, backlogs will develop; "interested persons" will not receive timely responses to their requests for criminal history records checks.	
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	27.0		
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS Scenario #2.				

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
BRU DPS Administration
COMPONENT Administrative Services

Page 4 of 4
Revised Date

FY 90

FISCAL NOTE

REQUEST:

Revision Date: 4/21/89
Title: Access to Criminal Records

Agency Affected: Public Safety
BRU: DPS Administration

Sponsor: Senator Duncan
Requestor: Senate Judiciary

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	13.3	13.3	13.3	13.3	13.3
TRAVEL						
CONTRACTUAL		1.8	.3	.3	.3	.3
SUPPLIES						
EQUIPMENT		7.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2.2	22.1	13.6	13.6	13.6	13.6

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	22.1	13.6	13.6	13.6	13.6
FEDERAL FUNDS						
OTHER						
TOTAL	2.2	22.1	13.6	13.6	13.6	13.6

POSITIONS:

FULL-TIME						
PART-TIME	0	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 required to process criminal history record checks under AS 12.62.035, a part-time Clerk IV will be required to handle the 2,000 requests expected from the Department of Education for initial certifications 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)

Prepared by: M. J. Clemens
Division: Administrative Services

Phone: 465-4336
Date: 4/21/89

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

Date: 4/21/89

Department of Public Safety
FISCAL NOTE - CSSB 225 (Jud) DRAFT
(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.

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 CSSB 225 (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. 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.

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.

Department of Public Safety
 FISCAL NOTE - CSSB 225 (Jud) DRAFT
 (Analysis, continued - Page 3 of 4)

Releasing conviction information as prescribed by CSSB 225 (Jud) 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 2,000 estimated initial certification, 360 will have FBI rap sheets.
- 4) 15% are felonies and 60% of these do not have disposition information.
- 5) Therefore, $((360 \times .15) \times .60) = 32$ 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 12% of the 49% involve drugs, contributing to the delinquency of a minor, and sex charges.
- 8) Therefore, $((360 \times .39) \times .12 \times .49) = 8$ 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, $((360 \times .46) \times .63) = 104$ people requiring extensive researching.

Function	# Cards	Seconds	Hours
Search AAFIS	2,000	540	300
APSIN Search	2,000	96	53
AK Dispo Research	55*	4,080	62
Sort and Mail	4,000	14	16
Extensive research	144**	9,060	362
Research FBI rcds	61***	1,800	31
Transfer FBI raps	205	189	11
Sort other FBI	1,795	64	32
Total processing time			867

* $(2,000 \times .11) \times .25 = 55$

** $32 + 8 + 104 = 144$

*** $(2,000 \times .18) = 360 \times .57 = 205 - 144 = 61$

Position Title Clerk IV		No. of Positions 1	Range/Step 9A	Barg. Unit G
Time Status PPT	Staff Months 5.5	Location Anchorage		Election District 7
Type of Expenditure		Justification		
1	2	3	<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 SB 225 will require the equivalent of a part-time position (17.0 hours/week).</p> <p>Initial furniture and equipment costs would not be needed in future years.</p> <p>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.</p> <p>Without approval of this position, backlogs will develop; "interested persons" will not receive timely responses to their requests for criminal history records checks.</p>	
Salary*	9.5	//////////		
Benefits*	3.8	//////////		
Premium Pay (Included in Above)	//////////	//////////		
Other	//////////	//////////		
Total Personal Services	//////////	13.3		
Travel				
Contractual	line hook up - \$1.5	1.8		
Commodities				
Equipment	Micro \$6.2 chair \$.8	7.0		
Other				
Total Cost		22.1		
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	22.1		
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS Scenario #2.				

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
 BRU DPS Administration
 COMPONENT Administrative Services

Page 4 of 4
 Revised Date

FY 90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Access to Criminal Records
Sponsor: Duncan
Requestor: Senate Judiciary

Agency Affected: Education
BRU: Education Finance and 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		67.7	67.7	67.7	67.7	67.7
TRAVEL		.7	.7	.7	.7	.7
CONTRACTUAL		4.0	4.0	4.0	4.0	4.0
SUPPLIES		1.5	1.5	1.5	1.5	1.5
EQUIPMENT		7.1				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	81.0	73.9	73.9	73.9	73.9

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	PR	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
GENERAL FUND	PR	-0-	81.0	73.9	73.9	73.9	73.9
FEDERAL FUNDS							
OTHER							
TOTAL							

POSITIONS:

FULL-TIME	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached analysis.

Prepared by: Mary Hakala
Division: Commissioner's Office

Phone: 465-2800
Date: 4/13/89

Approved by Commissioner: William G. Demmert
Agency: Education

Date: 4/13/89

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

DEPARTMENT OF EDUCATION
FISCAL NOTE ANALYSIS
4/13/89

SB 225: Access to criminal records

Personal Services

1 FT Education Associate I, Range 13A	\$37.8
1 FT Clerk Typist III, Range 8B	29.9

Subtotal	\$67.7

Travel

Travel reflects one trip to Anchorage to participate in the annual teacher certification workshop which provides information on the certification process and requirements to educators in the state. \$.7

Contractual

Contractual costs include telephone and postage and telefacsimile transmission costs (4.0). \$4.0

Commodities

Supplies for staff positions and functions (stationary, duplication of necessary forms or procedural materials) \$1.5

Equipment

In year one only--two word processing terminals (\$6.0), two desks, chairs and one file cabinet (1.1). \$7.1

TOTAL, year one	=====	\$81.0
TOTAL, subsequent years		\$73.9

The proposed revenue source is GF/Program Receipts generated by teacher certification fees.

Position Title Education Associate I		No. of Positions 1	Range/Step 13A	Barg. Unit GGU
Time Status FT	Staff Months 12	Location Juneau		Election District
Type of Expenditure		Amount		
1	2	3		
Salary	26.5			
Benefits	11.3			
Premium Pay				
Other				
Total Personal Services		37.8		
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	Program Receipts	37.8		

Justification

The Education Associate I will handle transactions related to background criminal checks of school district personnel. Functions include tracking certification applications through steps in the background check process, monitor for clearance and follow up as necessary.

**Request For
New Position**

Agency Education
 BRU Education Finance and Support
 Component District Support
Teacher Certification Unit

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Position Title Clerk Typist III			No. of Positions 1	Range/Step 8B	Barg. Unit GGU
Time Status FT	Staff Months 12		Location Juneau		Election District
Type of Expenditure			Justification		
			<p>The Clerk Typist III will be responsible for all clerical support functions related to the background check process. It is estimated that the paper flow and level of inquiry as to the state requirements will be substantial, necessitating a full time clerical position. This position will also perform data entry functions, updating data within the teacher certification computerized data base related to background checks.</p>		
1	2	3			
Salary	20.1				
Benefits	9.8				
Premium Pay					
Other					
Total Personal Services					
Travel					
Contractual					
Commodities					
Equipment					
Other					
Total Cost		29.9			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004				
I-A Receipts	1006				
CIP Receipts	1061				
Other	Program Receipts	29.9			

**Request For
New Position**

Agency Education
 BRU Education Finance and Support
 Component District Support
Teacher Certification Unit

Page 4 of 4
 Revised Date

FY 90

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "An Act relating to criminal records and providing for an effective date." BRU: Prosecution
 Sponsor: Senator Duncan Components: Criminal Justice
 Requestor: Senate Judiciary litigation

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						
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REVENUE						
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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: April 12, 1989
 Approved by Commissioner: Douglas B. Baily, Attorney General Date: April 12, 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. SB 225

This bill amends AS 12.65.035 to provide that employers may request state records of all criminal convictions of a person who holds or seeks employment in a position in which the person has or would have supervisory or disciplinary power over a minor. The bill also provides that records of criminal convictions may be requested for a person who holds or seeks employment for any position as an employee of a school district or regional educational attendance area.

Current law is limited to criminal records of convictions involving contributing to the delinquency of a minor and any sex crimes, and current law applies only to person who hold or seeks a position in which the person has or would have 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. Because the bill provides that the Department of Education shall request and receive records on behalf of school districts and regional educational attendance areas, there might be a fiscal impact on the Department of Education. Existing statute permits school districts and REAA's to request records directly from the Department of Public Safety.