

S B

358

6-1845H
Chenoweth
2/14/90

Original sponsor(s): SEN. FISCHER, Kelly

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 358 (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 fingerprinting of minors."

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

8 * Section 1. AS 47.10.097(a) is amended to read:

9 (a) Except as provided in (b) of this section, a minor in the
10 custody of the department or of a law enforcement agency may not be
11 fingerprinted for reference to or entry into the Alaska automated
12 fingerprint system without a court order upon good cause shown. Good
13 cause exists if the minor is in custody for a criminal offense or if
14 identification of the minor is necessary for the safety of the minor
15 or of other persons.

16 * Sec. 2. AS 47.10.097(b) is amended to read:

17 (b) A law enforcement officer may fingerprint a minor who is 14
18 [16] years of age or older for reference to or entry into the Alaska
19 automated fingerprint system without a court order when the minor is
20 arrested [CONVICTED OF, OR ADJUDICATED A DELINQUENT] for [,] an of-
21 fense that is a crime if committed by an adult [FELONY].
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Original sponsor(s): SEN. FISCHER, Kelly

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14 identification of the minor is necessary for the safety of the minor
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18 [16] years of age or older for reference to or entry into the Alaska
19 automated fingerprint system without a court order when the minor is
20 arrested [CONVICTED OF, OR ADJUDICATED A DELINQUENT] for a criminal [,
21 AN] offense [THAT IS A FELONY].

BY SEN. FISCHER, Kelly

Rowley CS

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 358

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

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

Debate <

8 * Section 1. AS 47.10.090 is amended by adding a new subsection to
9 read:

*note re: recall
because of
arrest*

10 (d) Notwithstanding (a) of this section, if the court orders a
11 minor who is 14 years of age or older to the custody of the department
12 for placement in a juvenile facility under AS 47.10.080(b), the court
13 shall transmit a copy of the order to the Department of Public Safety.
14 On the basis of the court's order, the commissioner of public safety,
15 or a law enforcement officer designated by the commissioner, may
16 fingerprint the minor. The provisions of AS 47.10.097(d) apply to
17 fingerprints obtained under this subsection. The commissioner of
18 public safety may not create or maintain a record based on the copy of
19 the court order transmitted to the commissioner under this subsection
20 and shall promptly destroy the copy of the court order after the
21 minor's fingerprints have been secured.

22 * Sec. 2. AS 47.10.097(a) is amended to read:

23 (a) Except as provided in (b) of this section, a minor in the
24 custody of the department or of a law enforcement agency may not be
25 fingerprinted ^(retain) [FOR REFERENCE TO OR ENTRY INTO THE ALASKA AUTOMATED
26 FINGERPRINT SYSTEM] without a court order upon good cause shown. Good
27 cause exists if the minor is in custody for a ^{criminal} serious offense against
28 persons or property or if identification of the minor is necessary for
29 the safety of the minor or of other persons.

1 * Sec. 3. AS 47.10.097(b) is amended to read:

2 (b) A law enforcement officer may fingerprint a minor who is 14
3 [16] years of age or older ^(retain) [FOR REFERENCE TO OR ENTRY INTO THE ALASKA
4 AUTOMATED FINGERPRINT SYSTEM] without a court order

5 (1) when the minor is arrested [CONVICTED OF, OR ADJUDICAT-
6 ED A DELINQUENT] for [,] ^{a criminal offense} ~~an offense that is a felony if committed by~~
7 an adult; or

8 ~~(2) immediately after the minor is institutionalized upon~~
9 ~~adjudication for delinquency.~~

10 * Sec. 4. AS 47.10.097 is amended by adding a new subsection to read:

11 (d) If the minor is 14 or 15 years of age, the fingerprints
12 taken under (b) of this section may be checked through the Alaska
13 automated fingerprint identification system once and then shall be
14 immediately destroyed. If the minor is 16 or 17 years of age, the
15 fingerprints may be entered in the Alaska automated fingerprint iden-
16 tification system.

Alaska State Legislature

Senator Paul Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269



State Senate

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

MEMORANDUM

RECEIVED

FEB 2 1990

JAN FAIKS
SENATE OFFICE

TO: Senator Jan Faiks, Chairman
Senate Judiciary Committee

FROM: Senator Paul Fischer *PF*

SUBJECT: Senate Bill 358
(relating to fingerprinting of minors)

DATE: February 2, 1990

I appreciate your scheduling the above referenced bill before the Senate Judiciary Committee in such a timely manner.

As you are aware, I introduced similar legislation in the Fifthteenth Legislature and it passed the Senate on January 27, 1988; however, it eventually died in the House.

Since that time, several concerns have been brought to my attention by the Department of Law and our own Legal Services. I plan to introduce a Sponsor Substitute that addresses these factors prior to your committee meeting next week.

Again, your consideration is greatly appreciated.

PAF/sgn

in jud
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OK

Alaska Association of Chiefs of Police



Alaska Peace Officers Association, Inc.



Federal Bureau of Investigation National Academy Associates



**Position Statement
from The Law Enforcement Coalition
Concerning Legislative Proposals
before the
Sixteenth Alaska Legislature
January 1990**

JAN 29 1990

FOREWORD

This is the third year that the Coalition, consisting of the Alaska Peace Officers Association, Inc., the Alaska Association of Chiefs of Police, and the F.B.I. National Academy Associates, have jointly identified what we feel are the two top priorities involving legislation affecting public safety statewide.

During the last legislative session the limiting of Municipal liability imposed by the Busby decision was passed into law in the form of SB 66. We feel that was a significant accomplishment and appreciate the support of the Sixteenth Alaska Legislature. We are very satisfied that our concerns were heard by the members who met with us.

The other two priorities listed in our Statement last session were Indemnification of Government Employees and Fingerprinting of Minors. We feel these two issues are critical as they continue to affect the jobs police officers are able to do for their communities.

We strongly urge that you support these issues. The interests of every citizen in the State is affected. We strive for ever increasing professionalism throughout our ranks and we ask that the legislature continue to support us by passing laws which enable us to better serve the people of Alaska.

There are other bills being introduced this session which we intend to support. Recriminalization of marijuana continues to receive our support and urging. We are working for and will support legislation in favor of conspiracy, retirement reforms for peace officers in various fields, and possession of a deadly weapon during a violation of a domestic violence writ. We anticipate there will be other bills we support and favor and we always look forward to sharing our concerns.

Thank you for your interest. We extend to you an invitation to call or meet with any member of the Executive Boards for the Coalition. The officers are listed at the end of our Statement.

FINGERPRINTING OF MINORS

In 1988, Alaska State Statute 47.10.097 (Fingerprinting of Minors) was passed by the Legislature. This allows an officer to fingerprint a minor who is 16 years of age or older for entry into, or reference to, the Alaska Automated Fingerprint System (hereafter referred to as AAFIS) without a court order if the minor is convicted of, or adjudicated a delinquent for an offense that is a felony. However, we believe that the statute does not go far enough in that it does not allow for fingerprints to be taken, referenced, or entered into the AAFIS without a court order if the minor is only in custody and has not yet been adjudicated or convicted of a crime. This is what we wish to have amended.

Fingerprints are a primary tool for detection in many areas of criminal investigation. We believe, in the case of juveniles, a tremendous psychological deterrent to future criminal conduct. Statistics show that over the last 13 year period, juveniles constituted over 50% of the arrest rate for crimes such as burglary, larceny/theft, motor vehicle theft, and arson.

The "Coalition" believes that the true percentage of juvenile perpetrators is actually much higher. Detection, apprehension, and the rehabilitation process could advance much faster should law enforcement have access to fingerprint files of previously arrested youth between the ages of 14 and 17. We stress the rehabilitation process in this position statement as we strongly believe that the longer a juvenile is allowed to go undetected the more his or her conduct has been reinforced. This would, thereby, substantially diminish rehabilitation into productive adulthood.

The "Coalition" again urges the Legislature to pass into law a statute which would enable law enforcement to solve and prevent more crimes and ultimately better protect our citizens. We urge the Legislature to amend the 1988 statute to include the following:

1. A law enforcement officer may fingerprint and photograph any juvenile 14-17 years of age who has been arrested for any offense for which a person 18 years and older can be arrested, and
2. fingerprints taken from an arrested juvenile may then be entered and stored into AAFIS.

It is important to note that the Supreme Court of Alaska in 1987 removed the provisions governing the restrictions of fingerprinting and the photographing of minors from the "Children's Rules". After this ruling, the Attorney General's office recommended in a letter to the Youth Bureau of the Anchorage Police Department that they should, as a matter of policy, commence fingerprinting and photographing juveniles under the same conditions as for adults. They even included polygraphing arrested juveniles when necessary, however that is not what is of primary concern to us in this position statement.

The Supreme Court had given law enforcement the latitude they needed to protect the victims, as well as create the foundation for rehabilitation of those particular juveniles. We now ask that the Legislature assist in this same vein by considering the above recommendations.

A major concern from detractors of this proposal is that juveniles arrested for various crimes are too young to have realized the consequences of their mistakes. They conclude that by simple virtue of their age they should not then be subjected to fingerprinting and supposedly stigmatized for life. It must be countered that other than to certified law enforcement agencies, there is no access to juvenile files and that even access by other law enforcement agencies is extremely restricted. It is therefore our contention that this particular argument against juvenile fingerprinting is simply unwarranted and not a concern to the juvenile unless he or she becomes an habitual offender.

Unfortunately, it is a sad commentary of our present day society that an increasing number of crimes are being committed by juveniles. However, law enforcement needs to be able to use all the tools at their disposal to address and confront this growing problem and we are asking for your assistance in considering this important proposal.

EXECUTIVE BOARDS FOR THE COALITION

AACP

Mike Daugherty
President
Homer, 235-8113

Duane Udland
Vice President
Anchorage, 786-8552

George Novaky
Secretary
Anchorage, 786-8958

Glen Godfrey
Treasurer
Anchorage, 269-5511

Dan Anslinger
Board Member
Ketchikan, 225-6631

Richard Cummings
Board Member
Fairbanks, 452-1527

APOA

Shirley Warner
President
Anchorage, 786-8851

Dale Florian
Vice President
Fairbanks, 474-7721

Don Otis
Board Member
Juneau, 789-2161

John Shover
Board Member
Fairbanks, 452-2114

Greg Russell
Board Member
Anchorage, 262-4455

Greg Hansen
Board Member
Anchorage, 786-8787

Terry Quarton
Board Member
Wasilla, 276-3550

FEINAA

Terry McConnaughey
President
Anchorage. 269-5643

Dan Anslinger
Vice President
Southeast Region
225-6631

Glenn Flothe
Vice President
South Central Region
262-4453

Richard Cummings
Vice President
Northern Region
452-1527

Turk Mayfield
Secretary/Treasurer
Willow
495-6413

BILL NO: SSSB 358

DATE: February 14, 1990

TITLE: An Act relating to the fingerprinting of minors

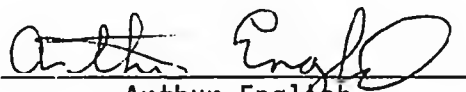
CONTACT: Gayle A. Horetski
Deputy Commissioner
465-4322

DEPARTMENT OF PUBLIC SAFETY
FINGERPRINTING

This bill would allow the fingerprinting of juveniles arrested for felony offenses or committed to a juvenile facility upon adjudication for delinquency. Under this legislation, the fingerprints of offenders 14 and older could be taken for comparison with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS). The prints of offenders 14 and 15 years old are required to be destroyed after comparison. Prints of offenders 16 and older may be retained in AAFIS.

This bill should have a positive impact on the ability of police to solve cases involving juvenile offenders. A large percentage of theft and burglary offenses are committed by juveniles. Fingerprint evidence is frequently found at the scene of these offenses, but is not matched to any suspect because juveniles are not fingerprinted. AAFIS records indicate that a large number of theft and burglary offenses are cleared when adults are arrested and their fingerprints matched to latents from crimes committed when the offender was a juvenile. Had these persons been fingerprinted as juvenile offenders they could have been identified, clearing additional cases and enabling the court to consider the offender's complete conduct when deciding the disposition of a case.

The Department of Public Safety supports SSSB 358.


Arthur English
Commissioner

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

STEVE COWPER, GOVERNOR

REPLY TO

CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX KC
JUNEAU, ALASKA 99811-0310
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

February 7, 1990

The Honorable Paul Fischer
Alaska State Senator
P.O. Box V
Juneau, Alaska 99811

Re: Legislation Authorizing
Fingerprinting Minors

Dear Senator Fischer:

You have asked for the Criminal Division's comments on your proposal to reintroduce CSSB 37 (Rules) (1987). In addition, you have asked for comments on AS 47.10.097, which allows minors over the age of 16 to be fingerprinted under limited circumstances.

Proposal to Reintroduce CSSB 37 (Rules) (1987)

Fingerprinting minors over the age of 14, without a court order, would be permissible under CSSB 37 (Rules) in two situations. First, a law enforcement officer could take fingerprints when a minor is arrested for an offense that is a felony if committed by an adult. Second, fingerprints could be taken immediately after a minor is institutionalized upon adjudication for delinquency. If the minor is 16 or 17 years of age, the statute would allow the fingerprints to be entered in the Alaska Automated Fingerprint Identification System (AAFIS). An earlier version of the bill required a minor's fingerprints to be purged from AAFIS when the minor reached age 18; this language was deleted from CSSB 37 (Rules).

As you know, unidentified fingerprints found at the scene of a crime are checked for comparison with fingerprints in the computerized AAFIS database. Statistics show that the majority of burglary arrests in Alaska are of juveniles between the ages of 14 and 18 years of age. ^{1/} Since there are juveniles who remain involved in criminal activity after reaching adulthood, we do not

^{1/} The majority of burglaries where arrests have been made, however, are committed by adults.

believe it makes sense to purge the fingerprints of 16- and 17-year-olds from the system. Doing so would deprive law enforcement officers of a valuable investigative tool, and may result in the inability to solve crimes that could be solved if the fingerprints remained in AAFIS.

During the hearings on SB 37, proponents of purging argued that keeping the prints on AAFIS beyond the minor's 18th birthday is inconsistent with the philosophy of keeping records of juvenile convictions confidential. However, contrary to the assumption that was made during the 1987 hearings, AAFIS records are not linked to criminal history records. And, since there is more than one reason for entry of a minor's fingerprints onto AAFIS, the fact that a minor's fingerprints are in AAFIS would not imply that the minor had a criminal record. 2/ Since the existence of an AAFIS fingerprint record is not the equivalent of a criminal record, we do not believe that maintaining fingerprints beyond a minor's 18th birthday is inconsistent with the law on confidentiality of records.

Experience with AS 47.10.097

In 1988, the Legislature added a section to Title 47 that allowed law enforcement officers to

fingerprint a minor who is 16 years of age or older for reference to or entry into the Alaska automated fingerprint system without a court order when the minor is convicted of, or adjudicated a delinquent for, an offense that is a felony.

However, the statute failed to address how a law enforcement officer would know whether a minor had been convicted of a felony. Since juvenile conviction records are confidential under AS 47.10.090, the Department of Public Safety has been completely unable to implement AS 47.10.097. For some time, the Division of Family and Youth Services has been working on a policy that would result in court orders being issued authorizing the release of information to the Department of Public Safety. This policy, however, has yet to be implemented in all areas of the state.

In order to simplify the implementation of AS 47.10.097, even if you do not decide to reintroduce CSSB 37 (Rules) (1987), AS 47.10.090 needs to be amended to allow for disclosure, to the Department of Public Safety, of adjudication and conviction records of minors over the age of 16 who have been convicted of, or

2/ For example, under A.S. 44.41.025(d), a parent or guardian can submit any minor's fingerprints for entry onto AAFIS.

adjudicated a delinquent for, an offense that is a felony. However, even with an amendment of this nature, the Department of Public Safety would have difficulty implementing the law without a court order requiring the minor to appear at a particular time and place where fingerprints could be taken. Since the purpose of the law is to allow fingerprinting without a court order, a more comprehensive amendment to AS 47.10.090 would need to be developed.

Recommended Amendments to CSSB 37 (Rules)

Your proposal to reintroduce CSSB 37 (Rules) goes a long way towards solving the problem currently faced by the Department of Public Safety in implementing AS 47.10.097 by allowing the fingerprints of all minors over the age of 14 to be taken at the time of arrest by a trained law enforcement officer. However, since the bill also provides for taking fingerprints immediately after a minor is institutionalized upon an adjudication for delinquency, an amendment is necessary to allow a record of institutionalization to be released to the Department of Public Safety. In order to protect the rights of minors, the statute should specify that the record of institutionalization must be destroyed as soon as the fingerprints are entered into AAFIS, and that no record other than the fingerprints may be maintained about the juvenile by the Department of Public Safety.

We suggest that a new section be added to CSSB 37 (Rules) as follows:

Section 1. AS 47.10.090 is amended by adding a new section to read:

(d) Notwithstanding (a) of this section, the court shall forward an order of institutionalization following an adjudication of delinquency to the Department of Public Safety if the minor is 14 years of age or older. The order shall serve as the basis for obtaining fingerprints from the minor under AS 47.10.097 and shall be immediately destroyed after the fingerprints are obtained. Except for entry of the minor's fingerprints in the Alaska Automated Fingerprint Identification System under AS 47.10.097, the Department of Public Safety may not maintain or create any record based on an order of institutionalization released under this section.

The Honorable Paul Fischer

February 7, 1990

Page 4

Thank you for the opportunity to comment on this interesting piece of legislation. If you have any comments or questions about the issues raised in this letter, please let me know.

Very truly yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By: 

Laurie H. Otto
Assistant Attorney General

cc: Bob Evans

LHO:me-169

The following procedures should be followed when visitation rights are denied prior to the termination of parental rights: first, the Department of Health and Social Services, Division of Family and Youth Services should have primary authority to set visitation based on the best interests of the child, since the division is in the best position to make this decision in the first instance; and secondly, either the guardian ad litem or the parents should be entitled to request an expedited evidentiary hearing of a denial of visitation, which would consist of an independent determination by the superior court that clear and convincing evidence showed that the child's best interests were served by disallowing parental visitations. *K.T.E. v. State*, 689 P.2d 472 (Alaska 1984).

De facto determination of natural parent's visitation rights. — Where the Department of Health and Social Services decided to allow minor children, who had been adjudicated as children in need of aid, to move from Alaska to Alabama with

their foster care family, the state's action constituted a de facto termination of a natural parent's visitation rights; the natural father was unemployed and virtually penniless, the state would not provide airfare so that the father could visit his children on a regular basis, and the father would be limited to phone "visits" because of his lack of funds. *D.H. v. State*, 723 P.2d 1274 (Alaska 1986).

Standard of review of state action constituting de facto termination of natural parent's right of reasonable visitation. — The appropriate standard of review for state decisions which essentially terminate a natural parent's right of reasonable visitation under subsection (c) is an independent determination of whether the state has proved by clear and convincing evidence that termination of parental visitation is in the child's best interest. *D.H. v. State*, 723 P.2d 1274 (Alaska 1986).

Applied in *In re B.L.J.*, 717 P.2d 376 (Alaska 1986).

Sec. 47.10.090. Records. (a) The court shall make and keep records of all cases brought before it. The court's official records may be inspected only with the court's permission and only by persons having a legitimate interest in them. All information and social records pertaining to a minor and prepared by an employee of the court or by a federal, state or city agency in the discharge of the employee's or agency's official duty, including driver's license action under AS 28.15.185, are privileged and may not be disclosed directly or indirectly to anyone without the court's permission. However, a state or city law-enforcement agency shall disclose information regarding a case which is needed by the person or agency charged with making a preliminary investigation for the information of the court. The court shall forward a record of adjudication of a violation of an offense listed in AS 28.15.185(a) to the Department of Public Safety, if the court imposes a license revocation under AS 28.15.185. Within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court relinquishes jurisdiction over the minor, the court shall order sealed all the court's official records, information and social records pertaining to that minor, as well as records of all driver's license proceedings under AS 28.15.185, criminal proceedings against the minor and punishments assessed against the minor except for traffic offenses. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court.

(b) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent child or a child in need of aid unless authorized by order of the court, except that the name of a minor who is found for the second time to have violated a law, which if committed by an adult would be a felony, shall be made public unless the court, for good cause shown, in certain individual cases, enters an order prohibiting the disclosure.

(c) A person who violates a provision of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500 or by imprisonment for not more than one year, or by both. (§ 10(3)(4) art I ch 145 SLA 1957; am § 1 ch 124 SLA 1972; am § 1 ch 90 SLA 1975; am § 20 ch 63 SLA 1977; am § 4 ch 130 SLA 1988; am § 56 ch 50 SLA 1989)

Effect of amendments. — The 1988 amendment, effective September 1, 1988, in subsection (a), inserted "including traffic offenses and driver's license action under AS 28.15.185" in the third sentence and "driver's license proceedings under

AS 28.15.185" in the next-to-last sentence, and inserted the fifth sentence.

The 1989 amendment, effective May 27, 1989, deleted "traffic offenses and" following "including" in the third sentence in subsection (a).

NOTES TO DECISIONS

Confidentiality policy. — The policy of confidentiality in Child in Need of Aid proceedings is not absolute. The court has discretion to disclose records in CINA proceedings under subsection (a). *Clifton v.*

State, 758 P.2d 1279 (Alaska Ct. App. 1988).

Quoted in *Sledge v. State*, 763 P.2d 1364 (Alaska Ct. App. 1988).

Sec. 47.10.097. Fingerprinting of minors. (a) Except as provided in (b) of this section, a minor in the custody of the department or of a law enforcement agency may not be fingerprinted for reference to or entry into the Alaska automated fingerprint system without a court order upon good cause shown.

(b) A law enforcement officer may fingerprint a minor who is 16 years of age or older for reference to or entry into the Alaska automated fingerprint system without a court order when the minor is convicted of, or adjudicated a delinquent for, an offense that is a felony.

(c) Fingerprint records under this section are not subject to AS 47.10.090. (§ 3 ch 121 SLA 1988)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Fingerprinting of Minors

Agency Affected: Public Safety
BRU: Alaska State Troopers

Sponsor: Senators Fischer & Kelly
Requestor: Senate Judiciary

Component: Detachments

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	17.6	17.6	17.6	17.6	17.6	17.6
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	17.6	17.6	17.6	17.6	17.6	17.6

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	17.6	17.6	17.6	17.6	17.6	17.6
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	17.6	17.6	17.6	17.6	17.6	17.6

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This fiscal note is based upon the estimate of having State Troopers fingerprinting 1,500 juveniles per year. Each fingerprinting process will involve approximately 20 minutes for a total of approximately 500 hours per year. This equates to about 3 months of Trooper time statewide. The costs included on the fiscal note are based upon an average State Trooper position cost for three months. This would be a range 76, Step D.

Prepared by: Francis C. Allan
Division: Alaska State Troopers

Phone: 269-5691
Date: 02/08/90

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

Date: 2-8-90
Page 1 of 1

Handwritten:
2/8/90

FISCAL NOTE

REQUEST:

Revision Date: February 6, 1990
Title: An Act Relating to Fingerprinting
of Minors
Sponsor: Senators Fisher & Kelly
Requestor: _____

Agency Affected: DH&SS
BRU: Youth Services
Components: Probation Services

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	-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						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This bill has no fiscal impact on the Department in FY90. SSSB358 permits the fingerprinting of minors arrested for an offence that is a felony if committed by an adult. Fingerprinting of minors 16 years of age and older could be entered into the Alaska automated fingerprint identification system. Arresting law enforcement agencies would take the fingerprints and the Department of Public

Prepared by: Russ Webb Phone: 465-3170
Division: Family and Youth Services Date: _____

Approved by Commissioner: *Marya M. M...* Date: 2/20/90
Agency: _____

Distribution (by preparer):

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

SSB358 An Act Relating to the Fingerprinting of Minors (con't.)

Safety would do the entries. This Department would not be fiscally impacted.

FISCAL NOTE

REQUEST:

Revision Date: 2/23/90 Agency Affected: Public Safety
Title: An Act Relating to the BRU: DPS Statewide Support
Fingerprinting of Minors
Sponsor: Sen. Fischer Component: AK Criminal Records
Requestor: Senate Judiciary & ID

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	9.1	9.1	9.1	9.1	9.1	9.1
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	9.1	9.1	9.1	9.1	9.1	9.1

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	9.1	9.1	9.1	9.1	9.1	9.1
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	9.1	9.1	9.1	9.1	9.1	9.1

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

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.

(continued on attached)

Prepared by: Ken Bischoff Phone: 465-4336
Division: Administrative Services Date: 02/26/90

Approved by Commissioner: Arthur English Date: 02/26/90
Agency: Department of Public Safety Page 1 of 2

FISCAL NOTE - C S S S S B 358
Department of Public Safety
(Analysis - Page 2 of 2)

This bill would allow the fingerprinting of juveniles age 14 or older who are arrested for criminal offenses. These fingerprints would be compared with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS).

This bill should have a positive impact on the ability of police to solve cases involving juvenile offenders. A large percentage of theft and burglary offenses are committed by juveniles. Fingerprint evidence is frequently found at the scene of these offenses, but is not matched to any suspect because juveniles are not fingerprinted. AAFIS records indicate that a large number of theft and burglary offenses are cleared when adults are arrested and their fingerprints matched to latents from crimes committed when the offender was a juvenile. Had these persons been fingerprinted as juvenile offenders they could have been identified, clearing additional cases and enabling the court to consider the offender's complete conduct when deciding the disposition of a case.

Existing AAFIS staff are not able to keep current with their present workload. Additional funding is required in Personal Services to increase the staff months of a part-time position approved for this unit for FY91 under a fiscal note for HB 52 (Chp 7 SLA 1990). The increased workload expected as a result of this bill is estimated as follows:

Estimated Number of Juvenile Fingerprint Cards = 2,700

Total time to complete 15 processing steps = 436 hrs

Clerk IV - Range 9A (3.5 months)

Salary	\$6,059
Benefits	<u>2,999</u>
Total Salary & Benefits	\$9,058

POSITION PAPER

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 358

For an act entitled: "An Act relating to the fingerprinting of minors".

This bill would amend existing Alaska Statutes section 47.10.097 (Fingerprinting of Minors) to permit the fingerprinting of minors:

1. by court order for reference and entry into Alaska Automated Fingerprint System, (AAFIS) only on showing of good cause.
2. 14 years of age or older when arrested for an offence that is a felony.
3. 14 years of age or older when adjudicated and committed to a correctional facility for any offense.

BACKGROUND

The present law allows for the fingerprinting of minors under two conditions;

- a. Any minor may be fingerprinted for reference to or entry into AAFIS on order of the Court for good cause shown.
- b. A law enforcement officer may only fingerprint a minor who is 16 years of age or older for reference or entry into AAFIS without a Court order when the minor is convicted of or adjudicated a delinquent for an offence that is a felony.

The practice is that an adjudicated minor who meets the age and offence conditions and is under supervision and resides in a community placement is instructed to report to the Department of Public Safety for the fingerprinting process. Those minors who are committed to department youth facilities are made available to law enforcement for fingerprinting at the facility.

Senate Bill 358
Fingerprinting

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ANALYSIS

Law enforcement agencies desire access to and use of fingerprint records of minors for current and future investigative purposes. These agencies believe that additional crimes can be cleared by having access to fingerprints of those minors who have a history of arrest.

SSSB358 would loosen the restriction on fingerprinting minors who are in the custody of the department or a law enforcement agency by permitting a law enforcement officer to fingerprint a minor 14 years of age or older who has been merely charged with a felony offense or who has been institutionalized on any offense. The fingerprints of minors under age 16 could be checked only once in AAFIS and then destroyed. The fingerprints of minors 16 years of age or older could be retained indefinitely in AAFIS for subsequent checks. These fingerprints could be retained well after a minor's 18th birthday.

DEPARTMENT POSITION

The Department opposes the broad fingerprinting requirements of this bill since it would subject many arrested juveniles to the fingerprinting process with little likelihood of useful result. Because the arrest charge would be the basis for fingerprinting it is likely that overcharging would occur in the arrest of minors for the purpose of obtaining fingerprints. Such overcharging would burden the department intake offices and legal advisors with unnecessary case analysis. Additionally, such unnecessary action by law enforcement officials would tend to lessen rather than enhance a youthful offender's respect for the law.

Alaska's juvenile justice system is based on achieving short term protection of the public and juveniles through control and long term benefit to society through rehabilitation. Protection and rehabilitation, including accountability, are the desired outcomes, not punishment. To provide an incentive for positive change by youths and to achieve complete rehabilitation the law provides for records of juvenile delinquency to be sealed when minors reach age 18.

Senate Bill 358
Fingerprinting

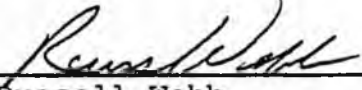
Page 3

This bill would reduce this incentive by retaining fingerprint records of juveniles beyond the time when all other records of delinquency are sealed.

This bill would also result in the collection and retention of the fingerprints of minors who have no record of conviction. And although these records would not be connected to a specific criminal record there is a perceived stigma to having fingerprint records in a criminal justice information system. The general public, lacking specific expertise and information on the collection and retention of law enforcement records, associates fingerprinting with criminal activity. Many professions and organizations have long opposed routine fingerprinting precisely because of the association with criminal activity.

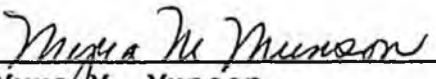
The Department opposes SSSB358 in its current form.

The department could support the bill if SSSB358 were amended to permit the fingerprinting of minors without a court order only in those cases where the minor has been adjudicated for an offense that would be a felony for an adult and if all fingerprints collected from a minor and retained in AAFIS were expunged from the system when the minor reaches age 18.



Russell Webb
Director
Division of Family and
Youth Services

2/14/90
Date



Myra M. Munson
Commissioner
Department of Health and
Social Services

2/15/90
Date

Alaska Association of Chiefs of Police



Alaska Peace Officers Association, Inc.



**Federal Bureau of Investigation National Academy
Associates**



**Position Statement
from The Law Enforcement Coalition
Concerning Legislative Proposals
before the
Sixteenth Alaska Legislature
January 1990**

RECEIVED

JAN 29 1990

JAN FAIKS
SENATE OFFICE

FOREWORD

This is the third year that the Coalition, consisting of the Alaska Peace Officers Association, Inc., the Alaska Association of Chiefs of Police, and the F.B.I. National Academy Associates, have jointly identified what we feel are the two top priorities involving legislation affecting public safety statewide.

During the last legislative session the limiting of Municipal liability imposed by the Busby decision was passed into law in the form of SB 66. We feel that was a significant accomplishment and appreciate the support of the Sixteenth Alaska Legislature. We are very satisfied that our concerns were heard by the members who met with us.

The other two priorities listed in our Statement last session were **Indemnification of Government Employees** and **Fingerprinting of Minors**. We feel these two issues are critical as they continue to affect the jobs police officers are able to do for their communities.

We strongly urge that you support these issues. The interests of every citizen in the State is affected. We strive for ever increasing professionalism throughout our ranks and we ask that the legislature continue to support us by passing laws which enable us to better serve the people of Alaska.

There are other bills being introduced this session which we intend to support. Recriminalization of marijuana continues to receive our support and urging. We are working for and will support legislation in favor of conspiracy, retirement reforms for peace officers in various fields, and possession of a deadly weapon during a violation of a domestic violence writ. We anticipate there will be other bills we support and favor and we always look forward to sharing our concerns.

Thank you for your interest. We extend to you an invitation to call or meet with any member of the Executive Boards for the Coalition. The officers are listed at the end of our Statement.

ANCHORAGE POLICE DEPARTMENT



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Training Coordinator

APOA STATE BOARD MEMBER

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APOA ANCHORAGE CHAPTER PRESIDENT

INDEMNIFICATION OF GOVERNMENT EMPLOYEES

Indemnification for public employees is our number one priority again this year. The impact of recent court rulings in the Lower 48 imposing personal punitive damages, and current cases being heard in the courts locally, are placing the livelihoods of our public employees in jeopardy. Their only wrong doing was that they were performing their duties in good faith.

We would like to reiterate our position from last year that it has long been accepted that government must be held responsible for its actions. When the government takes, or fails to take action, courts have held that the government is liable and injured parties have, through law suits or claims, received compensation for what was deemed wrong.

Generally when a lawsuit is filed it is filed against the government and employees are listed as parties to the action. In the past, employees have not been held personally liable for actions taken at the behest of their employer, unless they were clearly working outside the scope of their authority.

The trend where public employees are being held personally liable places these employees in a position where their own personal assets are at risk. All government employees are in danger, from the highest level policy maker to the lowest level of workers where those policies are carried out. The social workers, the road maintenance supervisor, the police officer, the medic, the fire fighter, and the department manager, are all vulnerable.

We in law enforcement believe this is an undue burden upon the State's public employees. It carries great potential for the workings of government to become bogged down because employees fear that decisions they make in good faith may result in the loss of their assets.

When employees are doing the work of the government, within the scope of their authority, and without malice, they should not be held personally liable when they are named as parties to law suits.

Legislation should be passed that indemnifies public employees and frees them from the burden of working under the constant threat that the good faith judgements they make can result in the loss of their homes, their cars, or their savings.

Chris
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FINGERPRINTING OF MINORS

In 1988, Alaska State Statute 47.10.097 (Fingerprinting of Minors) was passed by the Legislature. This allows an officer to fingerprint a minor who is 16 years of age or older for entry into, or reference to, the Alaska Automated Fingerprint System (hereafter referred to as AAFIS) without a court order if the minor is convicted of, or adjudicated a delinquent for an offense that is a felony. However, we believe that the statute does not go far enough in that it does not allow for fingerprints to be taken, referenced, or entered into the AAFIS without a court order if the minor is only in custody and has not yet been adjudicated or convicted of a crime. This is what we wish to have amended.

Fingerprints are a primary tool for detection in many areas of criminal investigation. We believe, in the case of juveniles, a tremendous psychological deterrent to future criminal conduct. Statistics show that over the last 13 year period, juveniles constituted over 50% of the arrest rate for crimes such as burglary, larceny/theft, motor vehicle theft, and arson.

The "Coalition" believes that the true percentage of juvenile perpetrators is actually much higher. Detection, apprehension, and the rehabilitation process could advance much faster should law enforcement have access to fingerprint files of previously arrested youth between the ages of 14 and 17. We stress the rehabilitation process in this position statement as we strongly believe that the longer a juvenile is allowed to go undetected the more his or her conduct has been reinforced. This would, thereby, substantially diminish rehabilitation into productive adulthood.

The "Coalition" again urges the Legislature to pass into law a statute which would enable law enforcement to solve and prevent more crimes and ultimately better protect our citizens. We urge the Legislature to amend the 1988 statute to include the following:

1. A law enforcement officer may fingerprint and photograph any juvenile 14-17 years of age who has been arrested for any offense for which a person 18 years and older can be arrested, and
2. fingerprints taken from an arrested juvenile may then be entered and stored into AAFIS.

It is important to note that the Supreme Court of Alaska in 1987 removed the provisions governing the restrictions of fingerprinting and the photographing of minors from the "Children's Rules". After this ruling, the Attorney General's office recommended in a letter to the Youth Bureau of the Anchorage Police Department that they should, as a matter of policy, commence fingerprinting and photographing juveniles under the same conditions as for adults. They even included polygraphing arrested juveniles when necessary, however that is not what is of primary concern to us in this position statement.

The Supreme Court had given law enforcement the latitude they needed to protect the victims, as well as create the foundation for rehabilitation of those particular juveniles. We now ask that the Legislature assist in this same vein by considering the above recommendations.

A major concern from detractors of this proposal is that juveniles arrested for various crimes are too young to have realized the consequences of their mistakes. They conclude that by simple virtue of their age they should not then be subjected to fingerprinting and supposedly stigmatized for life. It must be countered that other than to certified law enforcement agencies, there is no access to juvenile files and that even access by other law enforcement agencies is extremely restricted. It is therefore our contention that this particular argument against juvenile fingerprinting is simply unwarranted and not a concern to the juvenile unless he or she becomes an habitual offender.

Unfortunately, it is a sad commentary of our present day society that an increasing number of crimes are being committed by juveniles. However, law enforcement needs to be able to use all the tools at their disposal to address and confront this growing problem and we are asking for your assistance in considering this important proposal.

EXECUTIVE BOARDS FOR THE COALITION

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