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86

Bill No. House Bill 86

Date January 30, 1989

Title "An Act requiring employers to permit employees and former employees to have access to their personnel files."

Contact: Tom Stuart
264-2452
Eileen Plate
465-2700

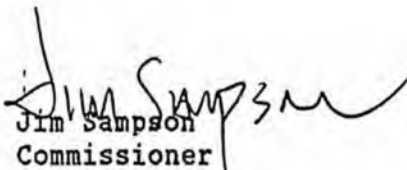
House Bill 86 requires employers to provide an employee or former employee access to his or her respective personnel records and to permit the employee to make copies of the records. The employer may charge the employee for the costs of duplicating the records.

Employees should have access to employer kept personnel records as provided in this bill. The accuracy of such records may have a direct bearing on a worker's employability should a prospective employer contact the worker's current or former employer as a reference. Under the provisions of this bill, a worker would have an opportunity to at least be aware of any discrepancies in the employer's personnel records.

The Department supports the provisions of this bill which provide workers a right to access and copy employer kept personnel records.

House Bill 86 would not have a fiscal impact on the Department of Labor.

APPROVED


Jim Sampson
Commissioner

POSITION PAPER/Department of Labor

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 86
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
Title: "An Act requiring employers to
permit ...access to ...personnel files." BRU: Labor Standards & Safety
Sponsor: House Labor & Commerce Components: Wage & Hour
Requestor: House Labor & Commerce

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	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director Phone: 465-2725
Division: Labor Standards & Safety Date: 1/26/89
Approved by Commissioner: Jim Sampson Date: 1/26/89
Agency: Department of Labor

Distribution (by preparer) :

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

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

February 13, 1989

SUBJECT: Scope of HB 86
(Access to personnel files)

TO: Representative Dave Donley

FROM: Teresa B. Cramer *IBC*
Legislative Counsel

You have asked whether HB 86 requires an employer to keep personnel files on employees. In my opinion, the answer is no. Under subsection (a), if an employer maintains personnel files, the employer must allow access to the information. There is nothing that affirmatively requires that the information be maintained in the first place.

If I may be of further assistance, please advise.

TC:kb
wkk1/119

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

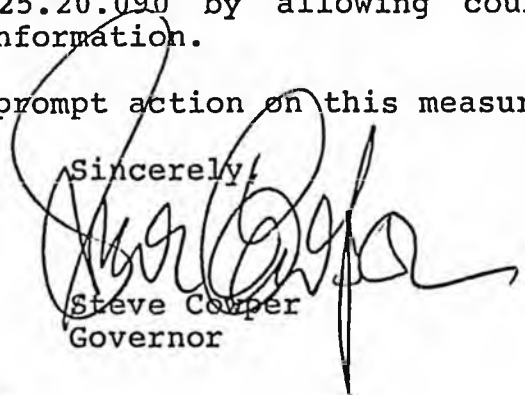
Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to child custody determinations.

This bill, recommended by the Council on Domestic Violence and Sexual Assault, in the Department of Public Safety, requires that instances of domestic violence, child abuse, and child neglect be taken into consideration in making child custody determinations. Current law requires that the court consider only "a history of violence between the parents," and then only when awarding shared custody. AS 25.20.090(8). There is no similar requirement that domestic violence be considered under AS 25.24.150 in other custody determinations, nor is there any requirement under either statute that instances of child abuse and neglect be reviewed by the court. Although most judges would be likely to receive such information into evidence as a matter of discretion, this bill requires the court to specifically focus on these factors. The bill also makes AS 25.24.150 more consistent with AS 25.20.090 by allowing courts to consider other pertinent information.

I urge your favorable and prompt action on this measure.

Sincerely,


Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to child custody determinations"
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. of Administration
BRU: Public Defender Agency
Components: Third Judicial District

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	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)



Prepared by: John B. Salemi, Acting Public Defender Phone: 279-7541
 Division: Public Defender Agency Date: 11/3/88

Approved by Commissioner: John Andrews Date: 12/28/88
 Agency: Department of Administration

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to child custody determination."
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Administration
BRU: Office of Public Advocacy
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
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	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate Phone: 274-1684
Division: Office of Public Advocacy Date: 10/24/88

Approved by Commissioner: John Andrews Date: 11/10/88
Agency: Department of Administration

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

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 86
PUBLISH DATE: 1/9/89 (a)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to child custody
determination
Sponsor: Rules Committee
Requestor: Governor Steve Cowper

Agency Affected: Public Safety
BRU: Council on Domestic Violence
and Sexual Assault
Component: _____

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	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 would apply to child custody determinations between two private parties. It will have no fiscal impact on the Department of Public Safety.

Prepared by: Barbara Miklos, Executive Director
Division: Council on Domestic Violence
and Sexual Assault
Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Phone: 465-4356
Date: 10/28/88
Date: 10/31/88



Sec. 25.24.150. Judgments for custody. (a) In an action for divorce or for legal separation or for placement of a child when one or both parents have died, the court may, if it has jurisdiction under AS 25.30.020, and is an appropriate forum under AS 25.30.050 and 25.30.060, during the pendency of the action, or at the final hearing or at any time thereafter during the minority of a child of the marriage, make, modify, or vacate an order for the custody of or visitation with the minor child that may seem necessary or proper, including an order that provides for visitation by a grandparent or other person if that is in the best interests of the child.

(b) If a guardian ad litem for a child is appointed, the appointment shall be made under the terms of AS 25.24.310(c).

(c) The court shall determine custody in accordance with the best interests of the child under AS 25.20.060 — 25.20.130. In determining the best interests of the child the court shall consider

(1) the physical, emotional, mental, religious, and social needs of the child;

(2) the capability and desire of each parent to meet these needs;

(3) the child's preference if the child is of sufficient age and capacity to form a preference;

(4) the love and affection existing between the child and each parent;

(5) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(6) the desire and ability of each parent to allow an open and loving frequent relationship between the child and the other parent.

(d) In awarding custody the court may consider only those facts that directly affect the well-being of the child.

(e) Notwithstanding the provisions of (d) of this section, in awarding custody the court shall comply with the provisions of 25 U.S.C. 1901 — 1963 (P.L. 95-608, the Indian Child Welfare Act of 1978). (§ 1 ch 160 SLA 1968; am § 1 ch 167 SLA 1975; am § 2 ch 61 SLA 1977; am § 1 ch 63 SLA 1977; am § 1 ch 15 SLA 1982; am §§ 2, 3 ch 88 SLA 1982)

Revisor's notes. — Formerly AS 09.55.205. Renumbered in 1983.

Cross references. — For intent of 1982 amendments, see § 1, ch. 88, SLA 1982, in the Temporary and Special Acts; for enforcement of visitation rights, see AS 25.24.300.

Effect of amendments. — The first 1982 amendment designated the former first sentence as subsection (a), the second sentence as subsection (b), and the rest of the section as subsection (c), inserted "or for placement of a child when one or both parents have died" and "modify, or vacate" in subsection (a), substituted "a child of the marriage" for "any child of the marriage," and the language beginning "that

may seem necessary or proper" for "which may seem necessary or proper and may at any time modify or vacate the order" in subsection (a), and substituted "If" for "Any appointment of" and "AS 09.65.130(c)" for "AS 09.65.130" and inserted "is appointed, the appointment" in subsection (b).

The second 1982 amendment, in subsection (c), substituted "under AS 25.20.060 — 25.20.130" for "neither parent is entitled to preference as a matter of right in awarding custody of the child" at the end of the first sentence, deleted "all relevant factors including" from the end of the introductory language in the second sentence, added "if the child is of sufficient

Propriety of exhibition of child to jury to show family resemblance or lack of it on issue of paternity, 55 ALR3d 1087.

Death of putative father as precluding action for determination of paternity or child support, 58 ALR3d 188.

Admissibility, in disputed paternity proceedings, of evidence to rebut mother's claim of prior chastity, 59 ALR3d 659.

Statute of limitations in illegitimacy or bastard proceedings, 59 ALR3d 685.

Long-arm statutes, obtaining jurisdiction over nonresident parent in filiation or support proceeding, 76 ALR3d 708.

Legitimation by marriage to natural

father of child born during mother's marriage to another, 80 ALR3d 219.

Proof of husband's impotency or sterility as rebutting presumption of legitimacy, 84 ALR3d 495; 14 Am. Jur. 10P2d, pp. 409-481.

Who may dispute presumption of legitimacy of child conceived or born during wedlock, 90 ALR3d 1032.

Right of indigent defendant in paternity suit to have assistance of counsel at state expense, 4 ALR4th 363.

Right of illegitimate child to maintain action to determine paternity, 19 ALR4th 1082.

Sec. 25.20.060. Custody of the child. (a) If there is a dispute over child custody, either parent may petition the superior court for resolution of the matter under AS 25.20.060 — 25.20.130. The court shall award custody on the basis of the best interests of the child. In determining the best interests of the child, the court shall consider all relevant factors including those factors enumerated in AS 25.24.150(c).

(b) Neither parent, regardless of the question of the child's legitimacy, is entitled to preference in the awarding of custody.

(c) The court may award shared custody to both parents if shared custody is determined by the court to be in the best interests of the child. An award of shared custody shall assure that the child has frequent and continuing contact with each parent to the maximum extent possible. (§ 6 ch 63 SLA 1977; am § 5 ch 88 SLA 1982)

Effect of amendments. — The 1982 amendment added the subsection (a) and (b) designations, substituted "AS 25.20.060 — 25.20.130" for "this section unless an action between the parents is pending under AS 09.55" at the end of the first sentence in subsection (a), substituted "AS 09.55.205(c)" for "AS 09.55.205" at the end of the subsection (a), and added subsection (c).

Editor's notes. — Section 1, ch. 88, SLA 1982, provides: "LEGISLATIVE INTENT. (a) The legislature finds that it is generally desirable to assure a minor child frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing. While actual physical custody may not be practical or appropriate in all cases, it is the intent of the legislature that both parents have the opportunity to guide and nurture their child and to meet the needs of the child on an equal footing beyond the considerations

of support or actual custody.

(b) The legislature also finds that it is in the best interests of a child to encourage parents to implement their own child care agreements outside of the court setting."

Collateral references. — 10 Am. Jur. 2d, Bastards, §§ 60-66.

Modification of child support order as justified by change in circumstances, 1 Am. Jur. 10P2d, pp. 1-63.

Pleadings in custody litigation, 22 Am. Jur. Trials, pp. 347-516.

Court's power in habeas corpus proceedings relating to custody of child to adjudicate questions as to child's support, 17 ALR3d 764.

Award of custody of child where contest is between child's father and grandparent, 25 ALR3d 7.

Award of custody of child where contest is between child's parents and grandparents, 31 ALR3d 1187.

Modern status of maternal preference rule or presumption in child custody cases, 70 ALR3d 262.

Award of custody of child when contest is between natural parent and step-parent, 10 ALR4th 767.

Right of incarcerated mother to retain

custody of infant in penal institution, 14 ALR4th 748.

Propriety of awarding joint custody of children, 17 ALR4th 1013.

Sec. 25.20.070. Temporary custody of the child. Unless it is shown to be detrimental to the welfare of the child, the child shall have, to the greatest degree practical, equal access to both parents during the time that the court considers an award of custody under AS 25.20.060 — 25.20.130. (§ 6 ch 88 SLA 1982)

Editor's notes. — For legislative intent behind the 1982 change in the child custody law, see editor's note to AS 25.20.060.

Collateral references. — Necessity of notice of application for temporary custody of child, 31 ALR3d 1378.

Sec. 25.20.080. Mediation of child custody matter. (a) At any time within 30 days after a petition for child custody is filed under AS 25.20.060 the court may order the parties to submit to mediation. Each party shall have the right to challenge preemptorily one mediator appointed.

(b) Mediation shall be conducted informally as a conference, or by telephone, or series of conferences, as determined by the mediator. The parties to the action and a court-appointed representative of the minor children shall attend.

(c) If the mediator determines that mediation efforts are unsuccessful, the mediator shall terminate mediation and notify the court that mediation efforts have failed. The custody proceeding shall proceed in the usual manner.

(d) Upon submission of the parties to mediation under this section, a pending child custody proceeding shall be stayed for a period of 30 days or until the court is notified that mediation efforts have failed. All court orders made during the pending custody proceeding remain in effect during the period of mediation.

(e) Costs of mediation shall be paid as ordered by the court by one party, by both parties, or by the state if both parties are indigent. (§ 6 ch 88 SLA 1982)

Sec. 25.20.090. Factors for consideration in awarding shared child custody. In determining whether to award shared custody of a child the court shall consider

- (1) the child's preference if the child is of sufficient age and capacity to form a preference;
- (2) the needs of the child;
- (3) the stability of the home environment likely to be offered by each parent;
- (4) the education of the child;

(5) the advantages of keeping the child in the community where the child presently resides;

(6) the optimal time for the child to spend with each parent considering

(A) the actual time spent with each parent;

(B) the proximity of each parent to the other and to the school in which the child is enrolled;

(C) the feasibility of travel between the parents;

(D) special needs unique to the child that may be better met by one parent than the other;

(E) which parent is more likely to encourage frequent and continuing contact with the other parent;

(7) any findings and recommendations of a neutral mediator;

(8) whether there is a history of violence between the parents;

(9) other factors the court considers pertinent. (§ 6 ch 88 SLA 1982).

Sec. 25.20.100. Denial of shared child custody. If a parent or the guardian ad litem requests shared custody of a child and the court denies the request, the reasons for the denial shall be stated on the record. (§ 6 ch 88 SLA 1982)

Sec. 25.20.110. Modification of child custody or visitation. An award of custody of a child or visitation with the child may be modified if the court determines that a change in circumstances requires the modification of the award and the modification is in the best interests of the child. If a parent opposes the modification of the award of custody or visitation with the child and the modification is granted, the court shall enter on the record its reason for the modification. (§ 6 ch 88 SLA 1982)

Collateral references. — Putative father's right to visit illegitimate child, 15 ALR3d 887. Right of jailed or imprisoned parent to visit from minor child, 15 ALR4th 1234.

Sec. 25.20.120. Closure of custody proceedings and records. At any stage of a proceeding involving custody of a child the court may, if it is in the best interests of the child, close the proceeding to the public or order the court records closed to the public temporarily or permanently. The court may modify or vacate an order under this section at any time. (§ 6 ch 88 SLA 1982)

Sec. 25.20.130. Access to records of the child. A parent who is not granted custody under AS 25.20.060 — 25.20.130 has the same access to the medical, dental, school, and other records of the child as the custodial parent. (§ 6 ch 88 SLA 1982)

Chapter 23. Adoption.

Section

- 10. Who may be adopted
- 20. Who may adopt
- 30. Venue
- 40. Persons required to consent to adoption
- 50. Persons as to whom consent and notice not required
- 60. How consent is executed
- 70. Withdrawal of consent
- 80. Petition for adoption
- 90. Report of petitioner's expenditures
- 100. Notice of petition, investigation and hearing
- 110. Required residence of minor
- 120. Hearing
- 130. Effect of adoption decree
- 140. Appeal and validation of adoption decree

Section

- 150. Confidential nature of hearings and records in adoption proceedings
- 160. Recognition of foreign decrees affecting adoption
- 170. Applications for birth certificates
- 175. Findings concerning persons born outside the United States
- 180. Relinquishment and termination of parent and child relationships
- 190. Adoption assistance
- 200. Investigation
- 210. Amount and duration of subsidy payments
- 220. Annual reevaluation
- 230. Regulations
- 240. Definitions

Collateral references. — 2 Am. Jur. 2d, Adoption, § 1 et seq. Proof: equitable adoption, 18 Am. Jur. POF2d, pp. 531-609. 2 C.J.S., Adoption of Persons, § 1 et seq. Modern status of law as to equitable adoption or adoption by estoppel, 97 ALR3d 347.

Criminal liability of one arranging for adoption of child through other than licensed child placement agency ("baby broker acts"), 3 ALR4th 468. Validity and application of statute authorizing change in record of birthplace of adopted child, 14 ALR4th 739.

Sec. 25.23.010. Who may be adopted. Any person may be adopted. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS 20.15.010. Renumbered in 1982.

Collateral references. — Adoption of adult, 21 ALR3d 1012.

Sec. 25.23.020. Who may adopt. (a) The following persons may adopt:

- (1) a husband and wife together;
- (2) an unmarried adult;
- (3) the unmarried father or mother of the person to be adopted;
- (4) a married person without the other spouse joining as a petitioner, if the person to be adopted is not the other spouse, and if
 - (A) the other spouse is a parent of the person to be adopted and consents to the adoption; or
 - (B) the petitioner and the other spouse are legally separated; or
 - (C) the failure of the other spouse to join in the petition or to agree to the adoption is excused by the court by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances constituting an unreasonable withholding of consent.