

HB

214

(7)

Date Referred: March 10, 1993

FURTHER REFERRALS:

Date of Committee Action: 4-2-93

The JUDICIARY Committee considered:

HB 214

HOUSE BILL NO. 214

DISCLOSURE OF MINOR'S RECORDS BY PARENT

"An Act allowing the parent or legal guardian of a minor to disclose certain records and information about the minor to certain state officials and state employees; prohibiting further disclosure of the records and information to unauthorized persons; and providing for an effective date."

RECOMMENDATIONS:

be replaced with

CS HB 214 (JUD)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note LAW

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Janette James</i>	<input checked="" type="checkbox"/>				
<i>Joseph W. Porter</i>	<input checked="" type="checkbox"/>				
<i>David Fortate</i>	<input checked="" type="checkbox"/>				
<i>Gail Phillips</i>	<input checked="" type="checkbox"/>				
<i>Tommy Woodard</i>	<input checked="" type="checkbox"/>				
<i>Ken East</i>	<input checked="" type="checkbox"/>				

Ken A. Porter

CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 214

Revision Date: April 2, 1993
 Title: "...allowing the parent or legal guardian of a minor to disclose certain records and information about the minor..."
 Sponsor: House Rules/Req. of Legislative Council
 Requestor: House Judiciary

Department Affected: Department of Law
 BRU: Legal Services
 Component: Operations
 COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
 Please see the attached analysis.

Prepared by: Richard I. Peques, Director
 Division: Administrative Services Division

Phone: 465-3672
 Date: April 2, 1993

Approved by Commissioner: Richard I. Peques/FCR/
Charles E. Cole, Attorney General
 Agency: Department of Law

Date: April 2, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 214

ANALYSIS (Continued):

This bill amends the state statute providing for the confidentiality of juvenile records, AS 47.10.090, to permit the parent or legal guardian of a minor to disclose records or other information about the minor to certain state officers for review or use in their official capacity. Under the bill, the persons to whom disclosure is made would be prohibited from disclosing the records or information to anyone who is not authorized to receive the records or information. The Department of Law would not normally be involved in this process and, consequently, there should not be a fiscal impact for the department.

8-LS0699E
Lauterbach
4/2/93

CS FOR HOUSE BILL NO. 214(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL

A BILL

FOR AN ACT ENTITLED

1 "An Act allowing the parent or legal guardian of a minor to disclose information
2 about the minor to certain state officials and state employees; prohibiting further
3 disclosure of the information to unauthorized persons; amending Alaska Child in
4 Need of Aid Rule 22; and providing for an effective date."

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

6 * Section 1. AS 47.10.090(a) is amended to read:

7 (a) The court shall make and keep records of all cases brought before it. The
8 court's official records may be inspected only with the court's permission and only by
9 persons having a legitimate interest in them. Except as provided in AS 47.10.092,
10 all [ALL] information and social records pertaining to a minor and prepared by an
11 employee of the court or by a federal, state, or city agency in the discharge of the
12 employee's or agency's official duty, including driver's license action under AS
13 28.15.185, are privileged and may not be disclosed directly or indirectly to anyone
14 without the court's permission. However, a state or city law-enforcement agency shall

1 disclose information regarding a case that [WHICH] is needed by the person or
 2 agency charged with making a preliminary investigation for the information of the
 3 court. The court shall forward a record of adjudication of a violation of an offense
 4 listed in AS 28.15.185(a) to the Department of Public Safety [,] if the court imposes
 5 a license revocation under AS 28.15.185. Within 30 days of the date of a minor's 18th
 6 birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday,
 7 within 30 days of the date on which the court relinquishes jurisdiction over the minor,
 8 the court shall order sealed all the court's official records, information, and social
 9 records pertaining to that minor, as well as records of all driver's license proceedings
 10 under AS 28.15.185, criminal proceedings against the minor, and punishments assessed
 11 against the minor except for traffic offenses. A person may not use these sealed
 12 records for any purpose except that the court may order their use for good cause
 13 shown or may order their use by an officer of the court in making a presentencing
 14 report for the court.

15 * Sec. 2. AS 47.10 is amended by adding a new section to read:

16 Sec. 47.10.092. PARENTAL RIGHT TO DISCLOSE ~~RECORDS~~ INFORMATION. (a)
 17 Notwithstanding AS 47.10.090, a parent or legal guardian of a minor subject to a
 18 proceeding under AS 47.10.010 - 47.10.142 may disclose confidential or privileged
 19 information about the minor, including information that has been lawfully obtained
 20 from agency or court files, to the governor, the lieutenant governor, a legislator, the
 21 ombudsman appointed under AS 24.55, the attorney general, and the commissioners
 22 of health and social services, administration, or public safety, or an employee of these
 23 persons, for review or use in their official capacities. A person to whom disclosure
 24 is made under this section may not disclose confidential or privileged information
 25 about the minor to a person not authorized to receive it.

26 (b) The disclosure right under (a) of this section is in addition to, and not in
 27 derogation of, the rights of a parent or legal guardian of a minor.

28 (c) A person who violates a provision of this section is guilty of a
 29 misdemeanor, and upon conviction is punishable by a fine of not more than \$500 or
 30 by imprisonment for not more than one year, or by both.

31 * Sec. 3. COURT RULE CHANGE. AS 47.10.092, added by sec. 2 of this Act, amends

- 1 Alaska Child in Need of Aid Rule 22, by providing an exception to the confidentiality of
2 information pertaining to a minor who is the subject of Child In Need of Aid proceedings.
3 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 10, 1993

FURTHER REFERRALS:

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APPROVES PREVIOUS: _____ (Dept/Date)

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zero fiscal note LAW

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<i>Janette James</i>	<input checked="" type="checkbox"/>				
<i>James H. Porter</i>	<input checked="" type="checkbox"/>				
<i>David J. Fort</i>	<input checked="" type="checkbox"/>				
<i>Gail Phillips</i>	<input checked="" type="checkbox"/>				
<i>Tommy Anderson</i>	<input checked="" type="checkbox"/>				
<i>Ken Felt</i>	<input checked="" type="checkbox"/>				

James H. Porter
CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: April 2, 1993
Place: Capitol Room 120

HB 217 Native Corporation Dividends to Minors
HJR 27 Desecration of U. S. Flag
HB 231 Aggravating/Mitigating Factors/Sex Crimes

Subject of Meeting: HB 54 Telephone Consumer Protection; HB 212 Sentencing: Aggravating Factors

HB 214 Disclosure of a Minor's Record by Parent

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
✓ Randall Hines	DHSS	Box 110630	99811	-	465-3187	(Y) N	HB 217
✓ Marcia McKenzie	CDVSA	Box 111200	99811		465-4356	(Y) N	HB 54
✓ Jean Fowlk	Ombudsman	Box 113000	99811		5581	(Y) N	HB 214
✓ Kay Brown	bill sponsor					(Y) N	HB 54
✓ Margaret Knuth	Law - Oregon	113000			4049	(Y) N	HB 212 HB 231
Janine Reep	Law - Civil	"			3603	to answer your question	HB 214
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	



State of Alaska
Ombudsman

Duncan C. Fowler

MEMORANDUM

DATE: April 1, 1993
TO: Representative Brian Porter, Chair
House Judiciary Committee
FROM: Duncan C. Fowler, Ombudsman
SUBJ: Ombudsman's Position
Committee Substitute for House Bill 214

Reply to:

- P.O. Box 102636
Anchorage, AK 99510-2636
(907) 277-8848
(800) 478-2624
- P.O. Box 113000
Juneau, AK 99811-3000
(907) 465-4970
(800) 478-4970
- P.O. Box 74358
Fairbanks, AK 99707-4358
(907) 452-4001
(800) 478-3257

BACKGROUND

This bill attempts to resolve problems with judicial interpretation of AS 47.10.090 which came to light last year. That statute by its terms restricts access to court records and prohibits disclosure of information and records which are prepared by federal, state or city agencies when those records pertain to a minor.

This statute has been interpreted by a superior court judge to prohibit a parent involved in a Child In Need of Aid (CINA) proceeding from providing specific information on the matter to their legislator, other elected officials or the ombudsman. While the court's order was eventually modified to allow the parent to provide information to the ombudsman, the limitations on discussions with elected officials remained in place.

This matter is being appealed to the Alaska Superior Court by the mother involved in the CINA case. The Legislative Council did authorize the submission of an Amicus brief supporting a parent's right to contact their elected officials in such matters

EFFECT OF PROPOSED LEGISLATION

This committee substitute provides parents or guardians an affirmative right to provide information about state actions involving a minor to elected officials or other selected state officials who would be in a position to correct any allegedly inappropriate acts by the state agencies involved. The substitute prohibits re-disclosure of confidential information by these officials.

It is broad enough to overcome any disclosure prohibitions in other state statutes, regulations and court rules such as CINA Rule 22 and Delinquency Rule 27 which, along with AS 47.10.090, also prohibit disclosure of information.

While it stops short of affirmatively exempting parents and guardians from coverage of disclosure restrictions or specifically allowing parents to disclose information not obtained from agency records to persons other than state officials, it clarifies that it should not be interpreted to limit existing parental rights by implication.



State of Alaska
ombudsman

Duncan C. Fowler

MEMORANDUM

DATE: April 1, 1993
TO: Representative Brian Porter, Chair
House Judiciary Committee
FROM: Duncan C. Fowler, Ombudsman
SUBJ: Ombudsman's Position - House Bill 214

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EFFECT OF PROPOSED LEGISLATION

This bill makes it clear that AS 47.10.090 does not prohibit a parent or guardian from providing information protected by that statute to elected officials or other selected state officials who would be in a position to correct any allegedly inappropriate acts by the state agencies involved. The bill also prohibits re-disclosure of confidential information by these officials.

OMBUDSMAN'S POSITION

The ombudsman supports the position that parents should be allowed to contact state officials to seek relief from agency actions that have such a significant impact on their personal lives. That cannot be done effectively unless parents are allowed to share information with those officials. Because this bill eliminates one source of restrictions on such contacts, while protecting the privacy interests of the minor involved, the ombudsman supports it.