

**SB**

**296**

# FISCAL NOTE

STATE OF ALASKA

BILL NO SB 296

1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An Act requiring fingerprint criminal background BRU: DPS Statewide Support  
checks person employed in nursing home Component: AK Criminal Records & ID  
 Sponsor: Senator Ellis  
 Requester: Senate Judiciary COMPONENT SERIAL NO. 1190

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<hr/>						
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<hr/>						
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE/Program Receipts						
1006 GE/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**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 Department of Public Safety supports fingerprint based criminal history background checks as part of the background investigation prior to employment or licensing for sensitive positions who come in routine contact with dependent adults. This bill proposes such a requirement for nursing homes and assisted living facilities.

Certain amendments are requested in the attached analysis which we believe will accommodate the sponsor intent but conform these sections dealing with fingerprint checks to existing state and federal practices.

(ANALYSIS CONTINUED... SEE ATTACHED)

Prepared By: Kenneth E. Bischoff, Director Phone: 465-4336  
 Division: Administrative Services Date: 3/4/95  
 Approved by Commissioner: *Ronald L. Otto* Date: 3/14/95  
 Agency: Ronald L. Otto, Dept. of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 296

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety

ANALYSIS CONTINUED:

## SB 296

Senate bill 296 is a measure adding the requirement for a State and Federal fingerprint based criminal history background check for employees of nursing homes and assisted living homes. The following is an analysis of the fiscal and operational impact on the Records and Identification Bureau, should this bill become law.

### FISCAL IMPACT

Under this legislation, managers of nursing facilities and assisted living homes should make decisions regarding the suitability of applicants for employment based upon regulations adopted by the Department of Health and Social Services and Department of Administration and criminal history record information provided to them under the authority of this bill. The Department of Public Safety provides some of the information required by these facility managers necessary to allow them to make informed decisions but should not be placed in the position of making these determinations. Accordingly the department provides the following information and requested changes to the bill.

Provided the following amendments are accepted, there will be no fiscal impact to the Department of Public Safety. These amendments are necessary to allow this bill to conform to current state and federal practices, will assist in developing more useful, understandable regulations and help to ensure release of appropriately specified information:

Amendment 1 - Replace the language contained in Section 1, Subsection (a) with the following:

*In order to determine the applicant's suitability for employment in a nursing facility, the nursing facility, under authority of regulations adopted under AS 47.33.920 shall require the applicant to furnish to the nursing facility, two full sets of fingerprints to enable a criminal background investigation to be conducted. The nursing facility shall submit the completed fingerprint cards to the Department of Public Safety. The Department of Public Safety is authorized to submit the fingerprints to the FBI for a national criminal history record check.*

Amendment 2 - Modify Section 1, Subsection (b), 1-3 to identify disqualifying offenses by specific Alaska Statute Citation (see AS 12.62.900, definition of "serious offense" as an example).

Amendment 3 - Modify Section 1, Subsection (b), (3) by deleting the words after offense "where there was evidence that alcohol use by the applicant contributed to the assault." We believe any assault to be inappropriate and disqualifying.

Amendment 4 - Replace the language contained in Section 2, Subsection (a) with the following:

*In order to determine the applicant's suitability for employment in an assisted living home, the assisted living home, under authority of regulations adopted under AS 47.33.920 shall require the applicant to furnish to the assisted living home, two full sets of fingerprints to enable a criminal background investigation to be conducted. The assisted living home shall submit the completed*

*fingerprint cards to the Department of Public Safety. The Department of Public Safety is authorized to submit the fingerprints to the FBI for a national criminal history record check.*

Amendment 5 - Modify Section 2, Subsection (b), 1-3 to identify disqualifying offenses by specific Alaska Statute Citation (see AS 12.62.900, definition of "serious offense" as an example.

Amendment 6 - Modify Section 2, Subsection (b), (3) by deleting the words after offense, "where there was evidence that alcohol use by the applicant contributed to the assault." We believe any assault to be inappropriate and disqualifying.



FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO: CSC3 296(JUD)

Revision Date: April 18, 1996 Dept. Affected: Public Safety  
 Title: An Act requiring fingerprint criminal checks person employed in nursing home BRU: \_\_\_\_\_  
 Sponsor: Senator Ellis Component: \_\_\_\_\_  
 Requesto: Senate Judiciary COMPONENT SERIAL NO. \_\_\_\_\_

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

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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-
CHANGE IN Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE/Program						
1006 GE/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

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 Department of Public Safety supports fingerprint based criminal history background checks as part of the background investigation prior to employment or licensing for sensitive positions who come in routine contact with dependent adults. This bill proposes such a requirement for nursing homes and assisted living facilities.

Prepared By: Kenneth E. Bischoff, Director Phone: 465-4336  
 Division: Administrative Services Date: April 18, 1996  
 Approved by: *Ronald L. Otte* Date: 4/18/96  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

**BILL NO: CSSB 296(JUD)**

Revision Date: April 16, 1996  
 Title: An Act requiring fingerprint criminal background checks person employed in nursing home  
 Sponsor: Senator Ellis  
 Requestor: Senate Judiciary

Dept. Affected: Public Safety  
 BRU: \_\_\_\_\_  
 Component: \_\_\_\_\_  
 COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
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Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

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FULL-TIME	0	0	0	0	0	0
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Certain amendments are requested in the attached analysis which we believe will accommodate the sponsor intent but conform those sections dealing with fingerprint checks to existing state and federal practices.

(ANALYSIS CONTINUED...SEE ATTACHED)

Prepared By: Kenneth E. Bischoff, Director Phone: 465-4336  
 Division: Administrative Services Date: April 16, 1996  
 Approved by Commissioner: *Ronald L. Utto* Date: 4/16/96  
 Agency: Ronald L. Utto, Dept of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO: CSSB 296 (JUD)

Revision Date: April 16, 1996

Dept. Affected: Public Safety

ANALYSIS CONTINUED:

## CSSB 296 (JUD)

CS Senate Bill 296 (JUD) is a measure adding the requirement for a State and Federal fingerprint based criminal history background check for employees of nursing homes and assisted living homes. The following is an analysis of the fiscal and operational impact on the Records and Identification Bureau, should this bill become law.

### FISCAL IMPACT

Under this legislation, managers of nursing facilities and assisted living homes should make decisions regarding the suitability of applicants for employment based upon regulations adopted by the Department of Health and Social Services and Department of Administration and criminal history record information provided to them under the authority of this bill. The Department of Public Safety provides some of the information required by these facility managers necessary to allow them to make informed decisions but should not be placed in the position of making these determinations. Accordingly the department provides the following information and requested changes to the bill.

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Amendment 2 - Modify Section 1, Subsection (b), 1-3 to identify disqualifying offenses by specific Alaska Statute Citation (see AS 12.62.900, definition of "serious offense" as an example).

Amendment 3 - Modify Section 1, Subsection (b), (3) by deleting the words after offense "where there was evidence that alcohol use by the applicant contributed to the assault." We believe any assault to be inappropriate and disqualifying.

Amendment 4 - Replace the language contained in Section 2, Subsection (a) with the following:

*In order to determine the applicant's suitability for employment in an assisted living home, the assisted living home, under authority of regulations adopted under AS 47.33.920 shall require the applicant to furnish to the assisted living home, two full sets of fingerprints to enable a criminal background investigation to be conducted. The assisted living home shall submit the completed*

*fingerprint cards to the Department of Public Safety. The Department of Public Safety is authorized to submit the fingerprints to the FBI for a national criminal history record check.*

Amendment 5 - Modify Section 2, Subsection (b), 1-3 to identify disqualifying offenses by specific Alaska Statute Citation (see AS 12.62.900, definition of "serious offense" as an example.

Amendment 6 - Modify Section 2, Subsection (b), (3) by deleting the words after offense, "where there was evidence that alcohol use by the applicant contributed to the assault." We believe any assault to be inappropriate and disqualifying.

9-LS1295AK  
Lauterbach  
4/15/96

CS FOR SENATE BILL NO. 296( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR ELLIS

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring criminal background checks before certain persons may be  
2 employed in a nursing home or assisted living facility; and prohibiting the  
3 hiring or retention of certain nursing home and assisted living facility employees  
4 convicted of specified offenses."

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

6 \* Section 1. AS 18.20 is amended by adding a new section to read:

7 Sec. 18.20.302. CRIMINAL BACKGROUND CHECK FOR EMPLOYEES. (a)  
8 A nursing facility may not employ an individual in a paid position that the department  
9 has determined is covered by this section, according to its regulations, unless the  
10 individual, before beginning employment,

11 (1) provides to the facility a sworn statement as to whether the individual  
12 has been convicted of an offense described in (c) of this section;

13 (2) provides to the facility the results of a name-check criminal  
14 background investigation that was completed by the Department of Public Safety no

1 more than 30 days before the individual is hired; and

2 (3) submits to the facility two full sets of the individual's fingerprints.

3 (b) Within 30 days after employing an individual in a paid position, nursing  
4 facility shall submit to the Department of Public Safety the fingerprints obtained under  
5 (a)(3) of this section. The Department of Public Safety shall submit the fingerprints to  
6 the Federal Bureau of Investigation for a national criminal history record check. When  
7 the results are received, the department shall advise the facility of

8 (1) the date on which the fingerprint background check was completed;

9 and

10 (2) whether the check shows that the individual has committed an offense  
11 described in (c) of this section.

12 (c) A nursing facility may not hire or retain an employee who has been  
13 convicted of an offense listed in the department's regulations as being an offense covered  
14 by this section.

15 \* Sec. 2. AS 47.33 is amended by adding a new section to article 1 to read:

16 Sec. 47.33.100. CRIMINAL BACKGROUND CHECK FOR EMPLOYEES. (a)

17 An assisted living home may not employ an individual in a paid position that the  
18 applicable licensing agency has determined is covered by this section, according to its  
19 regulations, unless the individual, before beginning employment,

20 (1) provides to the home a sworn statement as to whether the individual  
21 has been convicted of an offense described in (c) of this section; and

22 (2) provides to the home the results of a name-check criminal background  
23 investigation that was completed by the Department of Public Safety no more than 30  
24 days before the individual is hired; and

25 (3) submits to the home two full sets of the individual's fingerprints.

26 (b) Within 30 days after employing an individual in a paid position, an assisted  
27 living home shall submit to the Department of Public Safety the fingerprints obtained  
28 under (a)(3) of this section. The Department of Public Safety shall submit the  
29 fingerprints to the Federal Bureau of Investigation for a national criminal history record  
30 check. When the results are received, the department shall advise the home of

31 (1) the date on which the fingerprint background check was completed;

32 and

1 (2) whether the check shows that the individual has committed an offense  
2 described in (c) of this section.

3 (c) An assisted living home may not hire or retain an employee who has been  
4 convicted of an offense listed in the regulations of the applicable licensing agency as  
5 being an offense covered by this section.

6 \* Sec. 3. AS 47.33.920 is amended to read:

7 Sec. 47.33.920. REGULATIONS. The commissioner of health and social  
8 services and the commissioner of administration each may adopt regulations to carry out  
9 the provisions of this chapter, including regulations regarding licensure and renewal  
10 requirements, license application and renewal procedures; application and license fees;  
11 types, duration, renewal, and transferability of licenses; staffing and home operation  
12 standards; and variances to licensure and operating standards. Regulations adopted under  
13 this chapter may provide for the waiver or modification of the requirements of this  
14 chapter for homes with fewer than six residents except that the regulations may not  
15 provide for waiver or modification of the requirements of AS 47.33.100.

16 \* Sec. 4. APPLICABILITY. AS 18.20.302(a) and (b), added by sec. 1 of this Act, and  
17 AS 47.33.100(a) and (b), added by sec. 2 of this Act, may not be construed to modify a  
18 collective bargaining agreement that is in effect on the effective date of this Act. A collective  
19 bargaining agreement entered into or renewed on or after the effective date of this Act may  
20 not contain a provision that is inconsistent with secs. 1 - 3 of this Act.

# ALASKA STATE LEGISLATURE

Senate Health, Education and  
Social Services Committee

Senate Judiciary Committee

Department of Health and Social  
Services Budget Subcommittee

Department of Law  
Budget Subcommittee



While in Session  
State Capitol, Room 9  
Juneau, Alaska 99801  
(907) 465-3704  
fax (907) 465-2520

While in Anchorage  
716 West 4th Ave., Ste. 140  
Anchorage, Alaska 99501  
(907) 258-8182  
fax (907) 258-5571

## SENATOR JOHNNY ELLIS

### SPONSOR STATEMENT SENATE BILL 296

Senate Bill 296 would require a criminal background investigation that would include a fingerprint check of the records of the Federal Bureau of Investigation as a condition of employment in a nursing home or assisted living facility.

The National Child Protection Act of 1993, as amended by the Violent Crime Control and Law Enforcement Act of 1994, strongly encourages states to effect these background check procedures to enable employers to learn beforehand an individual applicant's fitness to care for the safety and well being of children, the elderly or individuals with disabilities. We worked closely with the FBI to assure compliance with the NCPA, Public Law 92-544 Criteria, and strict federal right to privacy restrictions. Our bill has received strong support and approval from the Access Integrity Unit of the FBI.

Abuse, neglect and exploitation of vulnerable adults in nursing homes and assisted living facilities is receiving increasing attention on the national level. A "20/20" program that featured hidden camera footage of nursing home attendants hitting and otherwise abusing and stealing from residents prompted this legislation. Criminals preying on vulnerable adults in nursing homes and assisted living facilities outrages everyone.

Alaska has one of the fastest growing senior populations in the country. Assisted Living Facilities are a relatively new industry that is expanding rapidly to meet the needs of this population. We must take steps to ensure the safety of those unable to protect themselves. Senate Bill 296 is a crime prevention bill. Those most likely to perpetuate such abuse will not be permitted to work in these facilities.

I strongly urge your support of this legislation to stop those who would prey on the most helpless members of our society.

SPONSOR STATEMENT



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535

February 28, 1996

Honorable Johnny Ellis  
Alaska State Legislature  
State Capitol, Room 9  
Juneau, Alaska 99801

Attention: Ms. Lynn Kenney  
Legislative Aide

Dear Senator Ellis:

Reference is made to your facsimiles dated January 23, and February 9, 1996, with enclosures, requesting a review of proposed legislation, which, if approved under Public Law (Pub. L.) 92-544, would authorize national criminal history background checks of nursing home and assisted living facility employees. Reference is also made to telephone conversations between Ms. Lynn Kenney of your staff and Ms. Connie Ahrens of my staff of January 26, and February 9, 1996.

The Access Integrity Unit legal staff has completed its review of the proposed legislation, Senate Bill 296, which pertains to background checks of prospective employees of nursing homes and assisted living facilities. The language, if enacted as currently drafted, would qualify under Pub. L. 92-544 for access to FBI criminal history record information (CHRI). When enacted into law, a complete copy of this legislation should be resubmitted for our final review.

If you have any questions concerning this matter, please do not hesitate to call Ms. Ahrens at (304) 625-2864.

Sincerely yours,

Bennie F. Brewer  
Chief  
Programs Support Section  
Criminal Justice Information  
Services Division

PUBLIC COMMENT



U.S. Department of Justice  
Federal Bureau of Investigation  
*Criminal Justice Information Services (CJIS) Division*  
*Identification Services*

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Letter to All Fingerprint Contributors

July 17, 1995

RE: National Child Protection Act of 1993

Attached to this letter are guidelines for implementing the National Child Protection Act (NCPA) as amended by the Violent Crime Control and Law Enforcement Act of 1994 (Crime Control Act). The guidelines address the child abuse crime reporting requirements of the NCPA. The NCPA also encourages states to effect national background check procedures that will enable employers to learn beforehand an individual applicant's fitness to care for the safety and well-being of children, the elderly, or individuals with disabilities. Information is set forth in the guidelines relating to the implementation of such background checks of care providers.

The Crime Control Act requires the Attorney General to disseminate guidelines for protecting children, the elderly, or individuals with disabilities from abuse to state and local officials and to public and private care providers. The FBI strongly recommends that recipients make copies of the guidelines widely available to any "authorized agency," "qualified entity," or "provider" as those terms are defined near the end of the guidelines. Section III of the guidelines is set apart from other sections so it can be easily reproduced and disseminated to private entities interested in conducting care provider background checks.

C. David Evans  
Acting Assistant Director  
Criminal Justice Information  
Services Division



# **OLDER PERSONS ACTION GROUP, Inc.**

---

325 E. 3rd. Ave., #300  
Anchorage, AK 99501-2606  
(907) 276-1059 (Toll free 800-478-1059)  
FAX (907) 278-6724

March 26, 1996

RECEIVED

MAR 28 1996

Ans'd.....

Senator Robin Taylor  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Senator Taylor:

The Older Persons Action Group, Inc. urges you to support SB 211. This bill makes it a crime for an individual to abuse or otherwise endanger vulnerable adults entrusted to their care. When law enforcement and judicial officials refuse to prosecute perpetrators of abuse because there is no specific law against these acts, we must take action to preclude repetition of these crimes. SB 211 fulfills this need and we strongly urge you to support this legislation

OPAG also endorses SB 296 which requires a fingerprint background check before certain persons may be employed in a nursing home or assisted living facility. Elderly living in these facilities are particularly vulnerable to criminals who find ready employment in these facilities. The requirement for a fingerprint background check is a prudent management practice to prohibit persons with violent or criminal backgrounds from caring for the elderly. I urge you to support SB 296.

Sincerely,

Sara L. McCullough  
President  
Board of Directors