

HB

15

LEGISLATIVE INFORMATION OFFICE
119 N. CUSHMAN, SUITE 101
FAIRBANKS, AK 99701
452-4448

DATE: 3/16/99

Please accept the enclosed original(s) of written
testimony for the

(H) HES teleconference scheduled on

HB15 3/16/99. A copy of this testimony was
transmitted to your committee via fax.

Thank you,

N. Kelly



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HOUSE H.E.S.S.
 Committee on HB 15 Committee Name Dated 3-16-99
Bill / Subject

THE STATE EMPLOYEES WHO WORK FOR THE EXECUTIVE AGENCIES, REPRESENTED AT THIS HEARING, WHO TESTIFIED TO THE COMMITTEE TODAY, HAVE LIED, DISSEMBLED, OBFUSCATED, AND CORRUPTED THE TRUTH OF CHILDREN'S PROCEEDINGS, WHILE PRETENDING THAT THEIR 'VICTIMS DO NOT EXIST, OR SHOULD NOT BE HEARD.

AS A PARENT, I WAS DENIED DUE PROCESS, AND MY CHILD WAS TORTURED, BY STATE AGENTS.

SIGNED:

Scott Trafford Calder SCOTT TRAFFORD CALDER
 Testifier

P.O. 75011 FAIRBANKS, AK. 99707

Representing

(907) 474-0174

Address / Phone Number

FISCAL NOTE

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

BILL NO. CSHB 15 (HES)

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "An Act relating to the rights of foster parents of a BRU Civil Division
child in need of aid." Component Human Services
 Sponsor Representative Rokeberg
 Requester House HESS Committee Component Serial No. 2208

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	15.5	15.5	15.5	15.5	15.5	15.5
Travel	0.1	0.1	0.1	0.1	0.1	0.1
Contractual	2.7	2.7	2.7	2.7	2.7	2.7
Supplies	0.2	0.2	0.2	0.2	0.2	0.2
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	18.5	18.5	18.5	18.5	18.5	18.5

CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	18.5	18.5	18.5	18.5	18.5	18.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	18.5	18.5	18.5	18.5	18.5	18.5

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 15 (HES) permits a foster parent who is opposed to a proposed transfer of a child-in-need-of-aid from the foster parent's placement setting to ask the court for a hearing on the proposed change. A hearing will be granted if the foster parent provides information to the court showing that the proposed placement change will put the child's health or safety at risk. The court can deny the placement if clear and convincing evidence shows that the child's health and safety will be at risk.

Anytime an additional hearing is added to the legal process, costs are increased. The Department of Law anticipates that foster parents will challenge placement changes approximately 40 times per year. Preparing for the hearing will require approximately 3 hours of attorney time, the hearing itself will take an average of 3 hours, and 2 hours will be

Prepared by Joan M. Kasson *Joan M. Kasson*
 Division Attorney General's Office
 Approved by Commissioner Bruce M. Botelho *Bob Botelho* Attorney General
 Agency Department of Law

Phone 465-5370
 Date/Time 4/30/99, 2:57 PM
 Date 4/30/99

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ANALYSIS CONTINUATION

needed to respond to motions. Not all of the challenges are likely to go to a full-blown hearing, however, so a more conservative estimate of 5 hours of additional attorney time per case is used for this analysis.

Using the departments FY00 standard attorney cost schedule of \$92.49 per hour, the estimated fiscal impact of the committee substitute would be \$18,498 (40 cases x 5 hours x \$92.49). The cost schedule includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses.

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 19, 1999

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4/29/99

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 15

HOUSE BILL NO. 15

FOSTER PARENT RIGHTS TO DISCLOSE INFO

"An Act relating to disclosure of information about certain children; and amending Rule 22, Alaska Child in Need of Aid Rules."

recommends it be replaced with the following committee substitute

CS HB 15 (HES)

[] the same title [X] a new title

[] additional referral to _____ Committee

[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal note(s) _____

[] fiscal note(s) _____

[] zero fiscal note(s) _____

[] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Paul [unclear]</i>			✓	
<i>Paul [unclear]</i>	✓		.	
<i>John [unclear]</i>			✓	
<i>Bill [unclear]</i>			✓	
<i>Tom [unclear]</i>			✓	

CHAIR'S SIGNATURE *Paul [unclear]*

John [unclear]

Subject: Re: HB 15 Fiscal Notes

Date: Tue, 16 Mar 1999 14:29:55 -0900

From: Shari Kochman <shari_kochman@gov.state.ak.us>

Organization: Alaska Office of the Governor

To: Wes Keller <Wes_Keller@legis.state.ak.us>

CC: Elmer A Lindstrom <elmer_lindstrom@health.state.ak.us>

no -- please don't produce a committee fiscal note. this should come from dhss. i apologize for delay and will get it to you asap.

Wes Keller wrote:

>

> Hello Shari, Is it safe to assume that HB 15, Foster Parents rights

> to disclose, has zero fiscal impact and that we should create a House

> HESS zero f.n.? Please advise. Thanks

>

> Wes

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

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LEGISLATIVE COUNCIL, MEMBER
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TOURISM, MEMBER

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us



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Representative Norman Rokeberg


MEMORANDUM

TO: Rep. Fred Dyson, Co-Chairman
Rep. John Coghill, Co-Chairman
House Health, Education & Social Services Committee

FROM: Rep. Norman Rokeberg

DATE: March 8, 1999

RE: House Bill 15
An Act relating to disclosure of information about certain children;
and amending Rule 22, Alaska Child in Need of Aid Rules



I would request that House Bill 15 be scheduled for a hearing before your committee.

Attached are the following:

- a. House Bill 15
- b. Sponsor Statement
- c. Sectional Analysis
- d. Proposed amendment LS0131\A.1, Lauterbach, 2/1/99. This would add language concerning the "child's family" to the current legislation. I would appreciate your consideration of this amendment.
- e. August 7, 1998, memorandum from Terri Lauterbach, Legislative Counsel

I would request that the hearing be teleconferenced to Anchorage and Fairbanks.

If you have any questions, please do not hesitate to contact me.

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Representative Norman Rokeberg

SPONSOR STATEMENT HOUSE BILL 15

An Act relating to disclosure of information about certain children; and amending Rule 22, Alaska child in Need of Aid Rules

House Bill 15 allows foster parents to speak to public officials (i.e., legislators, legislative staff, ombudsman, etc.) about a foster child and enables the foster parent to disclose to that public official confidential information about the foster child. That information must then be treated as confidential by the public official.

Legislative counsel was asked in August of 1998 if a foster parent could legally disclose confidential information about a foster child to a legislator. The answer was: "There are no Alaska Statutes that allow a foster parent to disclose this kind of confidential information to a legislator." While there are exceptions in the statute for parents and legal guardians (AS 47.10.092), no such exception is available for foster parents.

It is difficult to describe this matter because I wish to keep the name of the constituent (a foster parent) confidential and I cannot fully describe the situation without giving identifying clues. My constituent was concerned about the reunification plan in place for a foster child. Despite the foster parent's best efforts to work with the Department of Health and Social Services, Division of Family & Youth Services, the foster parent was being told that all was fine with the reunification plan, which called for the foster child to be back in the natural parents home in short order. The foster parent had information that some of the problems which caused the foster child to be placed in foster care were not solved. The state staff at the Department and the Division did not fully investigate these concerns until such time as other state agencies got involved. In other words, the Division and the Department ignored the foster parent. The concerns raised by the foster parent were valid. In the end, the reunification plan did not go forward.

The foster parent did breach confidentiality by contacting legislators; however, the nature of the situation and the lack of investigation by the Department and the Division forced my constituent into a sad position -- one that could cause her to lose her foster parent credentials. House Bill 15 will allow a foster parent to discuss such matters concerning the foster child with a legislator; the foster parent, under this proposal, will still not be able to discuss the family of the foster child with a public official.

I would encourage your support of this legislation.

ED1:02/01/99

SPONSOR STATEMENT

ALASKA STATE LEGISLATURE

House of Representatives

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Representative Norman Rokeberg

SECTIONAL ANALYSIS HOUSE BILL 15

An Act relating to disclosure of information about certain children; and amending Rule 22, Alaska Child in Need of Aid Rules

Prepared by Rep. Norman Rokeberg

Section 1: Grants exception for foster parents (current or previous) to discuss with listed public officials confidential information concerning a foster child. Public officials to whom confidential information is given may not disclose such information about the child to a person not authorized to receive it.

Section 2. Amends Rule 22, Alaska Child in Need of Aid Rules, to conform to Section 1 above.

ED1:02/01/99

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: HB 15

- 1 Page 1, line 1, following "children":
- 2 Insert "and their families"

- 3 Page 1, line 7, following "child":
- 4 Insert "or the child's family"

- 5 Page 1, line 13, following both occurrences of "child":
- 6 Insert "or the child's family"

- 7 Page 2, line 5, following "child":
- 8 Insert "or the child's family"

- 9 Page 2, line 8, following "children":
- 10 Insert "and their families"

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Juneau, Alaska 99801-2105

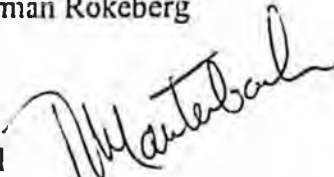
AUG 12 1998

MEMORANDUM

August 7, 1998

SUBJECT: Disclosure of confidential information by a foster parent to a legislator (Work Order No. 21-LS0034)

TO: Representative Norman Rokeberg
Attn: Janet Seitz

FROM: Terri Lauterbach
Legislative Counsel 

You have asked whether it was legal in May 1998 or is legal now for a foster parent to disclose confidential information about a foster child and the foster child's family to a legislator.

There are no Alaska Statutes that allow a foster parent to disclose this kind of confidential information to a legislator.

As you know, the general rule is that foster children's records are confidential and may not be disclosed. AS 47.10.090 governs court records, and AS 47.10.093 governs agency records. There are exceptions, such as when a court orders disclosure (AS 47.10.090(d) and AS 47.10.093(a)) and when agencies like DHSS need to disclose information to guardians ad litem, school officials, and persons who provide services for a foster child (AS 47.10.093(b)).

With regard to disclosures to legislators in particular, there is an exception in AS 47.10.092 that is applicable to parents and legal guardians. This exception, as of May 1998, allowed parents and legal guardians to disclose confidential information to a legislator about the child, but not about the child's family. Under sec. 35, ch. 99, SLA 1998, this exception will expand on September 14, 1998, to include information about the child's family. However, even under ch. 99, SLA 1998, the exception will not apply to foster parents. Foster parents will continue to be bound by the general rule against disclosure of confidential information about their foster children and their foster children's families.

SSHB 340 and CSSSHB 340(HES) contained a bill section that would have expanded the exception in AS 47.10.092 to include foster parents and grandparents. The exception would have allowed a foster parent to disclose confidential information to a legislator about a foster child, but not about the foster child's family. So, even this legislation, if enacted, would not

Representative Norma. .okeberg

August 7, 1998

Page 2

have allowed a foster parent to disclose to a legislator confidential information about a foster child's family.

I have enclosed a copy of sec. 35, ch. 99, SLA 1998, which will take effect in September. In case you are interested in proposing legislation in this area, I have also enclosed a copy of sec. 12, CSSSHB 340(HES), which was considered, but not enacted, this year. Please let me know if I can be of further assistance.

TML:pl
98-133.plm

Enclosure

Effective Sept. 14, 1999

1 (h) The court may order the termination of parental rights and responsibilities
2 of one or both parents under AS 47.10.080(c)(3) and commit the child to the custody
3 of the department. The rights of one parent may be terminated without affecting the
4 rights of the other parent.

5 (i) The department shall concurrently identify, recruit, process, and approve a
6 qualified person or family for an adoption whenever a petition to terminate a parent's
7 rights to a child is filed. If the court issues an order to terminate under (j) of this
8 section, the department shall report within 30 days on the efforts being made to recruit
9 a permanent placement for the child if a permanent placement was not approved at the
10 time of the trial under (j) of this section. The report must document recruitment efforts
11 made for the child.

12 (j) No later than six months after the date on which the petition to terminate
13 parental rights is filed, the court before which the petition is pending shall hold a trial
14 on the petition unless the court finds that good cause is shown for a continuance.
15 When determining whether to grant a continuance for good cause, the court shall take
16 into consideration the age of the child and the potential adverse effect that the delay
17 may have on the child. The court shall make written findings when granting a
18 continuance.

19 (k) The court shall issue an order on the petition to terminate within 90 days
20 after the last day of the trial on the petition to terminate parental rights.

21 * Sec. 34. AS 47.10.090(e) is amended to read:

22 (e) The court's official records under this chapter may be inspected only with
23 the court's permission and only by persons having a legitimate interest in them. A
24 foster parent is considered to have a legitimate interest in those portions of the
25 court's records relating to a child who is placed by the department with the foster
26 parent or who the department proposes for placement with the foster parent.

27 * Sec. 35. AS 47.10.092(a) is amended to read:

28 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of
29 a child [MINOR] subject to a proceeding under AS 47.10.005 - 47.10.142
30 [AS 47.10.010 - 47.10.142] may disclose confidential or privileged information about
31 the child or the child's family [MINOR], including information that has been lawfully

1 obtained from agency or court files, to the governor, the lieutenant governor, a
2 legislator, the ombudsman appointed under AS 24.55, the attorney general, and the
3 commissioners of health and social services, administration, or public safety, or an
4 employee of these persons, for review or use in their official capacities. The
5 department shall [MAY] disclose additional confidential or privileged information and
6 make copies of documents available for inspection [DOCUMENTS] about the child
7 or the child's family [MINOR] to these state officials or employees for review or use
8 in their official capacities upon request of the official or employee and submission
9 of satisfactory evidence that a parent or legal guardian of the child has requested
10 the state official's assistance in the case as part of the official's duties. A person
11 to whom disclosure is made under this section may not disclose confidential or
12 privileged information about the child or the child's family [MINOR] to a person not
13 authorized to receive it.

14 * Sec. 36. AS 47.10.093(b) is amended to read:

15 (b) A state or municipal agency or employee shall [MAY] disclose
16 appropriate information regarding a case to

17 (1) a guardian ad litem appointed by the court or to a citizen review
18 board or local review panel for permanency planning authorized by AS 47.14.200 or
19 47.14.220;

20 (2) a person or an agency requested by the department or the child's
21 legal custodian to provide consultation or services for a child [MINOR] who is subject
22 to the jurisdiction of the court under AS 47.10.010 as necessary to enable the
23 provision of the consultation or services;

24 (3) foster parents or relatives with whom the child is placed by the
25 department as may be necessary to enable the foster parents or relatives to
26 provide appropriate care for the child who is the subject of the case, to protect the
27 safety of the child who is the subject of the case, and to protect the safety and
28 property of family members and visitors of the foster parents or relatives;

29 (4) school officials as may be necessary to enable the school to provide
30 appropriate counseling and support services to the child [MINOR] who is the subject
31 of the case, to protect the safety of the child [MINOR] who is the subject of the case,

1 or employees for review or use in their official capacities upon request of the official
 2 or employee and submission of written evidence that a parent or legal guardian
 3 of the child has requested the state official's assistance in the case as part of the
 4 official's duties. A person to whom disclosure is made under this section may not
 5 disclose confidential or privileged information about the child or the child's family
 6 [MINOR] to a person not authorized to receive it.

7 * Sec. 12. AS 47.10.092 is amended by adding a new subsection to read:

8 (d) Notwithstanding AS 47.10.090 and 47.10.093, current or previous foster
 9 parents or grandparents of a child subject to a proceeding under AS 47.10.010 -
 10 47.10.142 may disclose confidential or privileged information about the child,
 11 including information that has been lawfully obtained from agency or court files, to
 12 the governor, the lieutenant governor, a legislator, the ombudsman appointed under
 13 AS 24.55, the attorney general, and the commissioners of health and social services,
 14 administration, or public safety, or an employee of these persons, for review or use in
 15 their official capacities. The department shall disclose additional confidential or
 16 privileged information about the child and make copies of all documents in the file
 17 about the child available for inspection to these state officials or employees for review
 18 or use in their official capacities upon request of the official or employee and
 19 submission of written evidence that a current or previous foster parent or a grandparent
 20 of the child has requested the official's assistance in the case as part of the official's
 21 duties. A person to whom disclosure is made under this section may not disclose
 22 confidential or privileged information about the child to a person not authorized to
 23 receive it.

24 * Sec. 13. AS 47.10.093(b) is amended to read:

25 (b) A state or municipal agency or employee shall [MAY] disclose
 26 appropriate information regarding a case to

27 (1) a guardian ad litem appointed by the court or to a citizen review
 28 board or local review panel for permanency planning authorized by AS 47.14.200 or
 29 47.14.220;

30 (2) a person or an agency requested to provide consultation or services
 31 for a child [MINOR] who is subject to the jurisdiction of the court under