

HB

321

TONY KNOWLES
GOVERNOR

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 25, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

As part of my administration's continuing effort to improve Alaska's child protection system, I am transmitting a bill that will open to the public information that has generally been closed – court hearings, court records and state agency records in child in need of aid (CINA) matters.

The issues surrounding public disclosure in children's matters can quickly become complicated, but the goal of this bill is simple: Shed more light on the child protection system and the system will improve. I believe public support for the approach taken in this bill will grow when the tragic circumstances affecting so many young lives are more fully understood, along with the daily challenges faced by those who work so hard to protect children.

Concerns have been raised during the past few years about the state's confidentiality laws. These laws were created to protect the privacy of children and their families. But they also have the practical effect of limiting public oversight and understanding of the goals and activities of our child protection agencies.

In response to growing concerns, I established the Governor's Task Force on Confidentiality of Children's Matters, consisting of state and media officials. I asked the task force to determine whether Alaska's confidentiality laws could be relaxed with minimal infringement on the privacy of children, and whether we could design a more open system without jeopardizing child protection programs and continued receipt of federal funding. This bill reflects the task force recommendations to allow greater public

Governor

The Honorable Brian Porter
January 25, 2000
Page 2

access to court hearings, court records and records of state agencies concerning child protection activities.

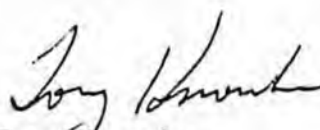
Amending our CINA statutes and court rules requires thoughtful planning. Thus, the bill will not be effective until July 1, 2001 – approximately one full year after it is signed into law. It also requires a report back to the public and legislature by December 2002 to assess these new procedures and make recommendations to address any problems that may arise.

More specifically, the bill affects CINA cases in the following ways:

- Court hearings would be opened to the public with limited exceptions – for example, if the court determines an open hearing would emotionally harm a child, or when other state or federal laws require closed hearings.
- Court records would be opened unless a federal or state law prohibits the release.
- State agency records would be made available to the public in some cases, such as responding to allegations surrounding harm to a child in state custody.

We have launched many initiatives in the past years to make Alaska a healthier, safer place for our children. But we can and must do more. This bill is the next step in our continuing efforts to protect young Alaskans.

Sincerely,



Tony Knowles
Governor

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-2075

February 7, 2000

The Honorable Fred Dyson, Chair
House Committee on Health,
Education & Social Services
Alaska State Legislature
State Capitol
Juneau, Alaska

Dear Representative Dyson:

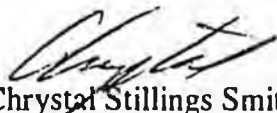
HB 321 - "An Act relating to the confidentiality of investigations, court hearings, and court and public agency information in child in need of aid matters; relating to immunity regarding disclosure of information in child in need of aid matters; . . ." has been referred to your committee. I am writing today to ask that you schedule it for a hearing at the earliest possible date.

HB 321 reflects the recommendations of the Governor's Task Force on Confidentiality of Children's Matters, a group of state and media officials. The task force's report, issued last spring, proposed changes to laws and court rules to provide greater public access to hearings and records of the court and records of state agencies concerning child protection activities.

If you need additional information about HB 321, please call me at 465-2132. I look forward to seeing this important bill on your committee's schedule in the near future.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Crystal Stillings Smith
Legislative Liaison

CSS:rew

cc: Pat Pourchot, Legislative Director, Governor's Office
Jan Rutherford, Assistant Attorney General
Deborah Behr, Assistant Attorney General

Sec. 47.10.090. Court records.

(a) The court shall make and keep records of all cases brought before it.

(b) [Repealed, Sec. 55 ch 59 SLA 1996].

(c) 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 releases jurisdiction over the minor, the court shall order all the court's official records pertaining to that minor in a proceeding under this chapter sealed. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown.

(d) 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 child in need of aid unless authorized by order of the court.

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

CHILD IN NEED OF AID RULES

Rule 3

just be provided by

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recording of the
examination and

Witnesses may be
to Evidence Rule

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any hearing with
or more parties,
or out-of-home

which the court is
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by telephone, and
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Attorney. Unless
representation by
represented by a

non-attorney tribal member or tribal employee. A written authorization for representation by the non-attorney tribal member or tribal employee may represent the tribe. A guardian ad litem need not be represented by an attorney unless the court, for good cause, requires representation by an attorney.

(SCO 845 effective August 15, 1987; amended by SCO 998 effective January 15, 1990; and by SCO 1355 effective July 15, 1999)

Cross References

CROSS REFERENCES: AS 47.10.030(b); AS 47.10.070.

Annotations

Cases

This annotation construes former Children's Rule 12. If, following criminal proceedings, collateral legal disabilities exist apart from the sentence, an appeal is not mooted even though the sentence has already been served. *E.J. v. State*, Op. No. 628, 471 P2d 367 (Alaska 1970).

This annotation construes former Children's Rule 12. Where a child has been declared delinquent without the necessary compliance with statutory and constitutional procedural standards, such child has been deprived of his constitutional rights. If any attendant collateral disabilities remain, the proceedings which were infected with those disabilities cannot stand. *E.J. v. State*, Op. No. 628, 471 P2d 367 (Alaska 1970).

This annotation construes former Children's Rule 12. The provision of this rule providing for closed proceedings must be interpreted and applied in a manner consistent with the child's right to a public trial. *RLR v. State*, Op. No. 706, 487 P2d 27 (Alaska 1971).

This annotation construes former Children's Rule 12. If a child or his guardian ad litem wants the press, friends or others to be free to attend juvenile proceedings, the hearing must be open to them. The court's areas of discretion within which it may refuse to open a hearing involve persons whose presence is not desired by the child. *RLR v. State*, Op. No. 706, 487 P2d 27 (Alaska 1971).

This annotation construes former Children's Rule 12. A hearing in which a chemist testifies that a tablet sent to him for analysis contained LSD should not be conducted in the absence of the infant involved after the attorney explicitly refuses to waive the infant's right to be present. Conducting a hearing in the child's absence under such circumstances is reversible error. *RLR v. State*, Op. No. 706, 487 P2d 27 (Alaska 1971).

This annotation construes former Children's Rule 12. Notions of benevolent protective policies for children cannot be used to validate departures from positive law relating to adjudicative and dispositive phases of children's proceedings. In *re E.M.D.*, Op. No. 737, 490 P2d 658 (Alaska 1971).

This annotation construes former Children's Rule 13. Considering the importance of juvenile proceedings and the fact that juvenile records are easily obtained and can have serious effects upon the life of a minor, the usual principles against entertaining moot controversies do not apply. Where a 12-year old boy has been determined to be delinquent, an appeal of that delinquency order will be considered, notwith-

standing that the order has been vacated. *E.J. v. State*, Op. No. 628, 471 P2d 367 (Alaska 1970).

This annotation construes former Children's Rule 13. Due process requires that detention orders be based on competent, sworn testimony. A child has a right to be represented by counsel at a detention inquiry. Any detention order must state with particularity the facts supporting it. *Doe v. State*, Op. No. 707, 487 P2d 47 (Alaska 1971).

This annotation construes former Children's Rule 13. A detention order based on unsworn hearsay of the district attorney, further based on the court's belief's unsupported by any evidence that the child will engage in unlawful activity if not detained, and containing no facts on which it is based, is invalid. *Doe v. State*, Op. No. 707, 487 P2d 47 (Alaska 1971).

This annotation construes former Children's Rule 12. A child has a vital interest in a dependency proceeding and is an essential party whose presence cannot be dispensed with arbitrarily; in a dependency proceeding the summons and a copy of the petition must be served on the child as well as the parents; failure to make such service results in a lack of jurisdiction over the child. In *re P.N.*, Op. No. 1127, 523 P2d 13 (Alaska 1975).

This annotation construes former Children's Rule 12. Where the children are not given the required notice of a dependency hearing the superior court has no jurisdiction over them and, therefore, cannot validly issue a judgment depriving a parent of his custody. In *re P.N.*, Op. No. 1127, 523 P2d 13 (Alaska 1975).

This annotation construes former Children's Rule 12. A court in a "child in need of supervision" hearing is under a duty to explain to the juvenile his right to counsel. *Wagstaff v. Superior Court, Family Court Division*, Op. No. 1144, 535 P2d 1220 (Alaska 1975).

This annotation construes former Children's Rule 12. In the adjudicative phase of any children's proceeding, the family court may consider only the specific situations set out in the petition. In *re S.D. Jr.*, Op. No. 1255, 549 P2d 1190 (Alaska 1976).

This annotation construes former Children's Rule 12. Court committed error when it commenced the adjudicative phase of the parental rights termination hearing in the absence of the child's counsel and guardian ad litem. *Matter of C.L.T.*, Op. No. 1866, 597 P2d 518 (Alaska 1979).

This annotation construes former Children's Rule 12. Superior court did not abuse its discretion in permitting two relatives of murder victims to attend a juvenile waiver hearing held to determine whether juveniles could be tried as an adult for the murders. *W.M.F. v. Jonstone*, Op. No. 571, 711 P2d 1187 (Alaska App. 1986).

Where father participated telephonically in parental rights termination action, his due process right to confront and cross-examine witnesses was not violated, since his attorney was present in the courtroom and did effectively cross-examine witnesses and since the transcript of the hearing indicated that the father could hear well enough to follow the proceedings. *E.J.S. v. Dept. of Health & Social Serv.*, Op. No. 3318, 754 P2d 749 (Alaska 1988).

In case in which the trial court affirmed the relocation of three children from their mother's home to a foster home, the trial court did not abuse its discretion in not allowing the children to testify regarding their desired placement. *A.H. v. State*, Op. No. 3504, 779 P2d 1229 (Alaska 1989).

Post-it Fax Note	7671	Date	# of pages 2
To	WBS - HHS	From	PAM FINLEY
Co/Dept.		Co.	
Phone #		Phone #	
Fax #		Fax #	4587

Rule 2

ALA

membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(h) "Indian child's tribe" means (1) the Indian tribe in which an Indian child is a member or eligible for membership or (2), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts.

(i) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law, or to whom temporary physical care, custody and control has been transferred by the parent of the child.

(j) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Department of the Interior because of their status as Indians, including an Alaska Native village as defined in 43 U.S.C. § 1602(c).

(k) "Parent" means a biological or adoptive parent whose parental rights have not been terminated.

(l) "Party" means the child, the parents, the guardian, the guardian ad litem, the Department, an Indian custodian who has intervened, an Indian child's tribe which has intervened, and any other person who has been allowed to intervene by the court.

(SCO 845 effective August 15, 1987; amended by SCO 1355 effective July 15, 1999)

Cross References

- CROSS REFERENCES:** AS 25.20.010; AS 47.10.990; 25 U.S.C. § 1903.
 (f) 25 U.S.C. § 1903(3).
 (g) 25 U.S.C. § 1903(4).
 (h) 25 U.S.C. § 1903(5).
 (i) 25 U.S.C. § 1903(6).
 (j) 25 U.S.C. § 1903(7).

Annotations

Cases

Legal guardian who has all the authority of a parent may do what a parent may do, so if parent may appoint custodian, guardian may also appoint one. T.B. v. State, Op. No. 4400, 922 P2d 271 (Alaska 1996).

Rule 3. Hearings.

(a) **Notice.** Notice of each hearing must be given to all parties and any foster parent or other out-of-home care provider within a reasonable time before the hearing. Service on the child may be accomplished by serving the child's guardian ad litem, attorney or social worker. Notice to a foster parent

CURRENT OINA RULE 3

or out-of-home care provider must be provided by the Department.

(b) **Presence of the Child.** A child who is not of suitable age to understand or participate in the proceedings need not be present at hearings unless the court so orders. The court may excuse the presence of a child who is of suitable age if attendance would be detrimental to the child. The child or the child's guardian ad litem may waive the child's right to be present at a particular hearing.

(c) **Presence of Foster Parent.** A foster parent or other out-of-home care provider is entitled to be heard at any hearing at which the person is present. However, the court may limit the presence of the foster parent or care provider to the time during which the person's testimony is being given if it is (1) in the best interest of the child; or (2) necessary to protect the privacy interests of the parties and will not be detrimental to the child.

(d) **Parties Excluded.** The court may exclude the child during particular testimony if the effect of that testimony would psychologically harm the child. The court also may exclude a parent, guardian or Indian custodian during the child's testimony in order to protect the child from material psychological harm, provided that the parent, guardian or Indian custodian may listen to a recording of the testimony to prepare for further examination and rebuttal.

(e) **Exclusion of Witnesses.** Witnesses may be excluded from a hearing pursuant to Evidence Rule 615.

(f) **General Public Excluded.** Hearings are not open to the public. However, the court may, after due consideration for the welfare of the child and the family, admit specific individuals to a hearing.

(g) Telephonic Participation.

(1) The court may conduct any hearing with telephonic participation by one or more parties, counsel, witnesses, foster parents or out-of-home care providers, or the judge.

(2) In any proceeding in which the court is authorized to proceed ex parte, the court may contact the non-appearing party or counsel by telephone, and in the interests of justice receive evidence or argument without stipulation of the parties.

(3) Procedures for telephonic hearings are governed by Civil Rule 99(b). Payment of telephone costs is governed by Administrative Rule 48.

(h) **Testimony Under Oath.** All testimony must be given under oath or affirmation as required by Evidence Rule 603.

(i) **Representation by Non-Attorney.** Unless the court for good cause requires representation by an attorney, an Indian tribe may be represented by a

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 321

Revision Date/Time (Note if correction) _____	Dept. Affected _____	Alaska Court System
Title <u>Confidentiality of CINA Proceedings and</u>	BRU _____	Alaska Court System
<u>Records</u>	Component _____	Trial Courts
Sponsor <u>Governor</u>		
Requester <u>House HESS</u>	Component No. _____	<u>768</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	83.2	83.2	83.2	83.2	83.2	83.2
Travel	33.6					
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	116.8	83.2	83.2	83.2	83.2	83.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF	116.8	83.2	83.2	83.2	83.2	83.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	116.8	83.2	83.2	83.2	83.2	83.2

Estimate of any current year (FY2000) cost: _____

POSITIONS

POSITIONS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Full-time						
Part-time	4	4	4	4	4	4
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: <u>Wooliver, Administrative Attorney</u>	Phone <u>463-4750</u>
Division: <u>Alaska Court System</u>	Date/Time <u>2/17/00 10:35 AM</u>
Approved by: <u>Stephanie J. Cole, Administrative Director</u>	Date <u>2/17/00</u>
Agency: <u>Alaska Court System</u>	

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Alaska Court System
Fiscal Analysis
HB 321
Public Access to CINA Hearings and Records
February 17, 2000

House Bill 321 amends the confidentiality laws governing child in need of aid (CINA) proceedings and records by making most of the proceedings and records open to the public.

With the exception of the initial hearing after a petition is filed (and a subsequent hearing if a party has not had an opportunity to obtain counsel) all CINA proceedings are open to the public unless the judge orders the hearing closed. The order closing the hearing must be written and include specific findings as to why closure is necessary.

Any member of the public who files a request for notice has the right to be notified of any petition to close a hearing. The judge may not rule on that petition until an affidavit has been submitted stating that notice was received. This provision may be waived if the request to close a hearing comes immediately before the hearing and the judge makes additional findings regarding the reasonableness of the request under the circumstances.

The records of CINA proceedings will also be open to public inspection, with certain exceptions. Records will remain confidential if they are confidential pursuant to federal statute or regulation, state statute or regulation, or court rule or order. Other records are public except that any confidential information that is contained in an otherwise public record must be redacted prior to release to the public. A party has the right to petition the court to seal records that would otherwise be public.

As with closing a hearing, a request to close a record cannot be ruled on by the judge until the requester submits an affidavit stating that notice was provided to any member of the public who had requested it. The judge may only seal records after making specific findings.

The above changes will generate court costs in three primary areas. First are costs associated with the initial development of new practices, policies, written instructions and forms for implementing the new record procedures. Second are costs associated with training. Training will consist of one additional day of training at the annual conferences for both court clerks and magistrates as well as training for superior court judges, which will be conducted in the major hub communities. Third are costs to cover four additional part time clerks. These part time positions will be in some of the busiest courts and will be necessary to handle both anticipated record requests and the additional work involved with the new filing procedures.

This note does not include any additional expenses incurred due to lengthened CINA hearings. It is likely that (at least initially) there will be a significant number of motions filed to close hearings and records. This motion practice will take time and the judge must issue a written order with findings in order to close a hearing or a record. No costs are included for this aspect of the bill because it is difficult to estimate the number of motions that will be filed and the time required to address them. However, if these changes result in a consistent lengthening of CINA hearings or a consistent increase in motion practice then the court system may return to the legislature for additional funding.

FISCAL NOTE

Bill Version: HB 321

(H) Publish Date: 1/26/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date _____ Dept. Affected Public Safety
 Title An Act relating to confidentiality of investigations, BRU AST - Detachments; Admin. Services
court hearings ... agency information in child in need of aid matters Component AST - Detachments; Admin. Services
 Sponsor Rules Committee
 Requester Governor Component No. 2325; 525

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation should not adversely impact the budget.

Prepared by: Royce Weller, Special Assistant Phone 465-4322
 Division Office of the Commissioner Date/Time Dec. 27, 1999
 Approved by Commissioner [Signature] Date Dec. 27, 1999
 Agency Ronald L. Otte, Department of Public Safety

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FISCAL NOTE

Bill Version: HB 321
(H) Publish Date: 1/26/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date: _____
Title: "An Act relating to the confidentiality of child in need of aid matters....."
Sponsor: Rules Committee
Requestor: Governor

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 00) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary).

This bill does not have a fiscal impact on the Office of Public Advocacy.

Prepared by: Brant McGee, Director
Division: Office of Public Advocacy

Phone: (907) 269-3500
Date: 1/5/00

Approved by Commissioner: Robert Poe Jr. *Alison M. Elan*
Agency: Department of Administration

Phone: 465-2200
Date: 1/5/00

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FISCAL NOTE

Bill Version: HB 321

(H) Publish Date: 1/26/00

STATE OF ALASKA

2000 LEGISLATIVE SESSION

Revision Date:
Title: "An Act relating to the confidentiality of child in need of aid matters....."
Sponsor: Rules Committee
Requestor: Governor

Department Affected: Administration
BFU: Legal and Advocacy Services
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

Table with 7 columns: OPERATING EXPENDITURES, FY 2001, FY 2002, FY 2003, FY 2004, FY 2005, FY 2006. Rows include PERSONAL SERVICES, TRAVEL, CONTRACTUAL, SUPPLIES, EQUIPMENT, LAND & STRUCTURES, GRANTS, CLAIMS, MISCELLANEOUS, and TOTAL OPERATING.

CAPITAL EXPENDITURES table with 7 columns and 1 row.

CHANGE IN REVENUES () table with 7 columns and 1 row.

FUND SOURCE: (Thousands of Dollars)

Table with 7 columns and rows for 1002 Federal Receipts, 1003 GF Match, 1004 GF, 1005 GF/Program Receipts, 1037 GF/Mental Health, OTHER, and TOTAL.

Estimate of any current year (FY 00) cost: \$ 0

POSITIONS:

Table with 7 columns and rows for FULL-TIME, PART-TIME, and TEMPORARY.

ANALYSIS: (Attach a separate page if necessary).

This bill would not have a great impact on our operations. Attorneys will have to file motions in cases where hearings should be closed or records sealed. But this work is not expected to be unduly burdensome.

Prepared by: Barbara Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: 1/4/00

Approved by Commissioner: Robert Poe Jr.
Agency: Department of Administration

Phone: 465-2200
Date: 1/5/00

FISCAL NOTE

No: 4

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Number: HB 321
(H) Publish Date: 1/26/00

Revision Date/Time (Note if correction): _____
Title: Confidentiality of children's proceedings
Sponsor: Rules Committee
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family & Youth Services
Component: FYS Management
COMPONENT SERIAL NO. 2306
See also (SN#): 2307

Expenditures/Revenues: (Thousands of Dollars)

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

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES	26.1	104.5	104.5	104.5	104.5	104.5
TRAVEL						
CONTRACTUAL	64.2	56.7	56.7	56.7	56.7	56.7
SUPPLIES	0.5	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	11.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	101.8	163.2	163.2	163.2	163.2	163.2

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES	1002		***	***	***	***	***
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
1002 Federal Receipts						
1003 GF Match						
1004 GF	101.8	163.2	163.2	163.2	163.2	163.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	101.8	163.2	163.2	163.2	163.2	163.2

Estimate of any current year (FY2000) cost: \$0.0

POSITIONS:

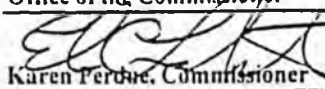
POSITIONS	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Section 17 of the bill authorizes the department to release summaries of information contained in reports of harm if the summary does not contain any information that would readily lead to the identification of 1) the person who made the report of harm; 2) the child; 3) the child's parents or siblings and members of the child's household; or 4) the alleged perpetrator.

The Department has previously published a one-time publication called "Alaska's Children of a Hidden War" which consists of summary information gathered from reports of harm statewide. To comply with Section 17 of the bill, the Department will periodically publish summary information in a format similar to "Alaska's Children of a Hidden War" and make the publication widely available to the public.

Prepared by: Elmer A. Lindstrom Phone: 465-1613
Division: Office of the Commissioner Date/Time: 1/24/00 3:09 PM

Approved by Commissioner:  Date: 1/24/00
Agency: Department of Health & Social Services

ANALYSIS (cont.):

Regular publication of this information will require the assistance of a Public Information Officer (Range 20) and an Administrative Clerk (Range 10) since gathering and compiling this information (over 17,000 reports of harm annually) is extremely time consuming. The proposed effective date of the bill is 7/1/01. The Department would establish the two positions in the fourth quarter of FY 01 to begin implementation of procedures and to provide for a training period.

The one-time cost for equipment for the two new positions include a computer, telephone and a desk and chair. Ongoing contractual services costs include: telephone charges for basic service and long distance calls and office supplies. Additional funding will also be required to develop and promulgate implementing regulations, train staff, and develop internal policies, procedures and forms regarding the release of confidential information.

Expenditure Analysis (Family & Youth Services Mgmt. Comp. #2306):

	Annual Cost FY01	Annual Cost FY02-06
Personal Services:		
Information Officer III (established the position in the 4th quarter of FY2001)	16.8	67.1
Admin Clerk III - (established the position in the 4th quarter of FY2001)	<u>9.4</u>	<u>37.4</u>
Subtotal	26.1	104.5
Contractual Services:		
Telephone (monthly basic & long distance)	0.8	3.1
Printing Cost of quarterly publication of reports of harm	13.4	53.6
Technical assistance to draft regulations	<u>50.0</u>	<u>0.0</u>
Subtotal	64.2	56.7
Supplies:		
Office supplies:	0.5	2.0
Equipment: (for 2 new positions):		
Computers	6.0	0.0
Telephones/communication equipment:	1.0	0.0
Desk & office chairs	<u>4.0</u>	<u>0.0</u>
Subtotal	11.0	0.0
Total	101.8	163.2

*****Changes in Revenues:**

In opening child protection proceedings as proposed, the Department does incur some risk relating to compliance with federal confidentiality requirements under Titles IV-B and IV-E of the Social Security Act. The federal government's willingness to enforce these confidentiality provisions is in doubt, however, since several states have similarly opened child abuse and neglect proceedings and to date have not been subject to financial sanctions.

The bill largely resolves this problem by recognizing the preeminence of federal law if a conflict between a provision of the bill and federal law adversely affects receipt of federal funds. In the event this situation arises, the Department would act quickly to minimize the loss of federal receipts.

The Department receives approximately \$15 million in federal Title IV-B and IV-E annually. These funds are spread throughout the Division of Family and Youth Services' budget.

FISCAL NOTE

No: 5

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Bill ^V ion: HB 321
(H) Publish Date: 1/26/00

Revision Date/Time (Note if correction): _____
 Title: Confidentiality of children's proceedings

 Sponsor: Rules Committee
 Requestor: Governor

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: FYS Staff Training
 COMPONENT SERIAL NO. 2307
 See also (SN#): 2306

Expenditures/Revenues: (Thousands of Dollars)

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

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL	15.0	13.0	10.0	10.0	7.0	7.0
CONTRACTUAL	30.0	25.0	20.0	20.0	15.0	15.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	45.0	38.0	30.0	30.0	22.0	22.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES 1002		***	***	***	***	***
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	45.0	38.0	30.0	30.0	22.0	22.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	45.0	38.0	30.0	30.0	22.0	22.0

Estimate of any current year (FY2000) cost: 50.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Division will have to conduct training sessions to ensure the successful implementation of the provisions of this bill. Primary training will be conducted in FY 01 with follow-up training done in subsequent fiscal years as necessary.

*****Changes in Revenues:**

In opening child protection proceedings as proposed, the Department does incur some risk relating to compliance with federal confidentiality requirements under Titles IV-B and IV-E of the Social Security Act. The federal government's willingness to enforce these confidentiality provisions is in doubt, however, since several states have similarly opened child abuse and neglect proceedings and to date have not been subject to financial sanctions.

Prepared by: Elmer A. Lindstrom
 Division: Office of the Commissioner

Phone: 465-1613
 Date/Time: 1/14/00 9:16 AM

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: 1/18/00

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ANALYSIS (cont.):

The bill largely resolves this problem by recognizing the preeminence of federal law if a conflict between a provision of the bill and federal law adversely affects receipt of federal funds. In the event this situation arises, the Department would act quickly to minimize the loss of federal receipts.

The Department receives approximately \$15 million in federal Title IV-B and IV-E annually. These funds are spread throughout the Division of Family and Youth Services' budget.

FISCAL NOTE

Bill Version: HB 321

(H) Publish Date: 1/26/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title ... relating to the confidentiality of child in need of BRU Civil Division
aid court hearings, court records, and ... agency records ... Component Human Services
 Sponsor Rules Committee
 Requester Governor Component No. 2208

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services		37.7	28.7	21.0	16.8	13.5
Travel		0.2	0.1	0.1	0.1	0.1
Contractual		6.1	4.6	3.4	2.7	2.2
Supplies		0.6	0.5	0.3	0.3	0.2
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	44.6	33.9	24.9	19.9	15.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		44.6	33.9	24.9	19.9	15.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	44.6	33.9	24.9	19.9	15.9

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would implement the recommendations of the Governor's Task Force on the Confidentiality of Children's Matters, effective July 1, 2001. Alaska's confidentiality laws relating to child in need of aid cases would be amended to impact three areas: court hearings, court records, and agency records.

The Department of Law workload would be impacted by the bill in two areas: increased court time, and increased advice to social workers. The department believes the impact would be felt most heavily in the first year following enactment.

The legislation requires court hearings be open to the public except in certain specific circumstances listed in proposed amendments to AS 47.10.070. During the first year, we would expect resistance to

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone 465-5370
 Division Attorney General's Office Date/Time 1/24/00, 10:41 AM
 Approved by Commissioner *Had to* Bruce M. Botelho, Attorney General Date 1/24/00
 Agency Department of Law

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 321

ANALYSIS CONTINUATION

this change. For example, requests to close the hearings would be likely from parent's attorneys, wishing to shield their clients from the public airing of negative information. As case law is established to further define just when a hearing may be closed, the number of requests to close a hearing should decline.

It is also possible that assistant attorneys general may be in court defending the state's desire to close a hearing for one of the reasons listed in the proposed amendments to AS 47.10.070, and be facing vigorous opposition from the media, or other interested parties. The department anticipates this will be relatively rare.

We anticipate that only a few, high profile cases will require time consuming written motion practice, whichever party is making the request. Most of the requests for a closed hearing will most likely be dealt with in the courtroom by oral argument. The frequency of the requests will be driven by a number of variables including judicial district, size of the community, and how judges generally rule in those areas. For example, we would expect a higher percentage of the requests to close hearings to come in smaller communities.

The department's current CINA caseload statewide is approximately 1,000 cases (counted by family). A relatively conservative estimate of the number of challenges to open hearings is ten percent, or 100 cases. As noted above, we expect most of the challenges to be dealt with in the courtroom, each requiring anywhere from fifteen minutes to a half an hour of department attorney time to respond to. The few cases requiring written motion practice, perhaps as many as ten, may take an average of two to three hours each.

90 cases x .4 hours x \$93.42 =	\$3,363.12
10 cases x 2.5 hours x \$93.42 =	\$2,335.50
Total Estimated Cost	= \$5,698.62

As discussed above, the new workload generated would be expected to decline as case law is developed. For the purposes of this fiscal note, we assume the new workload will decline by half in the second year, and be minimal in FY04.

This estimate is based on our best guess of what other parties might do. A change in the number of cases, or time needed to deal with the proposed new law, would impact the estimate mathematically using the formulas above.

Of greater fiscal impact to the Department of Law is the expected increase in the amount of time required to advise social workers on the change in law once enacted. Even with the current law having been in place for some time, assistant attorneys general spend a lot of time on the telephone advising social workers on confidentiality issues. We estimate calls in Fairbanks would increase by about four calls per week, in Anchorage by about 10 calls per week, and in Juneau, where DFYS' central office is located, by about 6 calls per week. Assuming each call takes average of 4/10th of an hour to complete, this would add \$38,862.72 to our costs (20 calls x .4 hours x 52 weeks x \$93.42).

As with the increased workload associated with motions to close court hearings, this new workload would decline as well, but at a much slower rate because requests for agency records will need to be reviewed on a case-by-case basis to ensure appropriate safeguards on confidential information are maintained. We are projecting it to decrease by 20 percent per year.