

**HB**

**180**

# LEGAL SERVICES

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

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

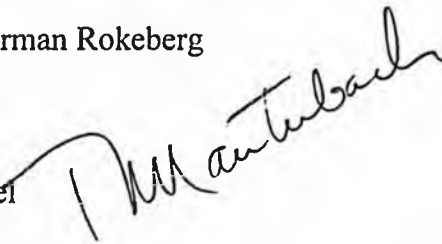
## MEMORANDUM

April 25, 2002

**SUBJECT:** Background checks (CSHB 180(JUD), version "G")

**TO:** Representative Norman Rokeberg  
Attn: Heather

**FROM:** Terri Lauterbach  
Legislative Counsel



Enclosed is a new CS (JUD) for HB 180. I understood my instructions to be based on a conceptual amendment made by the committee to remove "under investigation or arrest for," on page 3, line 24, and anywhere else in the "U" version of the CS where that kind of language occurred.

In line with that concept, I have made the following changes that are in addition to the change specifically requested for page 3, line 24:

(1) I removed "or is or has been under investigation or arrest for" on page 7, line 10, of the "U" version; and

(2) I removed "under investigation or arrest for," on page 7, lines 25 - 26, of the "U" version.

After checking with your staff, who confirmed that the conceptual amendment was intended to apply also to civil situations, not just criminal ones, I also made the following changes:

(1) I removed "is under investigation for, or" on page 3, line 26, of the "U" version;

(2) I removed "under investigation for, or" on page 7, lines 27 - 28, of the "U" version;

(3) I removed "has been the subject of, is under investigation for, or" on page 8, lines 11 - 12, of the "U" version.

I was told by your staff that the committee did not discuss whether licenses should be restricted or revoked on the basis that a person is a respondent in a civil proceeding

Representative Norman Rokeberg  
April 25, 2002  
Page 2

related to child abuse or neglect, so this CS retains "respondent" language where it existed in the "U" version.

If any of the changes made do not comport with your intent, if you want other changes in this CS, or if I may be of other assistance, please advise.

TML:med  
02-415.med

Enclosure

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 22, 2002

FURTHER REFERRALS:

Date of Committee Action: 4-24-02

The JUDICIARY Committee considered:

HB 180

HOUSE BILL NO. 180

BACKGROUND CHECK OF YOUTH WORKER

"An Act requiring child services providers to obtain criminal background checks for child services workers."

Recommends it be replaced with CS HB 180 (JUD) | ] Same Title |  New Title  
 For Separate Bills with new title: | ] Technical Title | ] New Title: HCR \_\_\_\_\_

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev. for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 HSS  
 LAA  
 LAW  
 LWF  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

<b>NEW FISCAL NOTES</b>				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<b>PREVIOUS FISCAL NOTES</b>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
HSS	1			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>William Berkowitz</i>	Berkowitz			✓	
<i>Kim Meyer</i>	Meyer	✓			
<i>Tom Cochran</i>	Cochran			✓	
<i>Jeannette James</i>	JAMES			✓	
<i>Albert Koblentz</i>	Koblentz			✓	
Chair: <i>Norm Rotenberg</i>	ROTENBERG				✓
Chair: <i> </i>					

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## MEMORANDUM

April 24, 2002

**SUBJECT:** Background Checks (CSHB 180( ), draft version "U")

**TO:** Representative Norman Rokeberg  
Attn: Heather

**FROM:** Terri Lauterbach  
Legislative Counsel *Terri Lauterbach*

Enclosed is the blank CS you requested.

The changes, compared to the "W" version previously passed out by the committee, are as follows:

**Page 4, line 25:** The word "indicted" has been removed. The other alternative to deal with the equal protection issue raised in my memorandum would be to add the following phrase after "license" on page 4, line 25: "is charged by information or complaint with, is under indictment or presentment for, or".

**Page 9, line 12:** The public members would no longer be entitled to per diem or travel expenses. (This is a new change, unrelated to any legal issue in my previous memo.)

**Page 9, line 21:** The due date for the task force's report has been changed to coincide with the termination date of the task force.

If I may be of further assistance, please advise.

cc: Representative Lesil McGuire  
ATTN: David Brewster

TML:med  
02-411.med

Enclosure

*Amended  
Adopted  
4.24.02*

22-LS0642\U  
Lauterbach  
4/24/02

**CS FOR HOUSE BILL NO. 180( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES MCGUIRE, Murkowski, Dyson, Croft, Stevens**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to persons who provide services related to children; establishing a**  
2 **legislative task force on child services; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** AS 47.35.010(a) is amended to read:

5 (a) The department may

6 (1) license and supervise foster homes, residential child care facilities,  
7 semi-secure residential child care facilities, secure residential psychiatric treatment  
8 centers, child placement agencies, and maternity homes;

9 (2) investigate applicants, licensees, and persons that the department  
10 reasonably believes are operating a facility without a license in violation of this  
11 chapter;

12 (3) adopt regulations to implement the provisions of this chapter,  
13 including regulations establishing licensure and renewal procedures, standards, and  
14 fees; establishing requirements for operation of facilities or agencies licensed under

1 this chapter; and distinguishing between types of facilities;

2 (4) enter into agreements with private entities, municipalities, or  
3 individuals to investigate and make recommendations to the department for the  
4 licensing and supervision of foster homes, residential child care facilities, semi-secure  
5 residential child care facilities, secure residential psychiatric treatment centers, child  
6 placement agencies, and maternity homes under procedures and standards of operation  
7 established by the department;

8 (5) accept licenses issued by other organizations or state agencies  
9 that have licensing authority under federal or state law for the facilities listed in  
10 (1) of this subsection.

11 \* Sec. 2. AS 47.35.015 is amended by adding a new subsection to read:

12 (h) A person, including a school district, may not provide domiciliary services  
13 to students as a charter school, state boarding school, or public school unless that  
14 school is licensed as a residential child care facility under this chapter.

15 \* Sec. 3. AS 47.35 is amended by adding a new section to read:

16 **Sec. 47.35.019. Mandatory denial of initial license.** (a) The department  
17 may not issue an initial license under this chapter if the applicant for the license who is  
18 a natural person or a person who is required to submit a release under  
19 AS 47.35.017(b)(5) in connection with a license has been previously convicted of any  
20 of the following crimes or of violating a law or ordinance of this or another  
21 jurisdiction with similar elements, or of an attempt, solicitation, or conspiracy to  
22 commit any of the following crimes or to violate a law or ordinance of this or another  
23 jurisdiction with similar elements:

24 (1) a crime involving domestic violence, as defined in AS 18.66.990,  
25 that is a felony under AS 11;

26 (2) a crime that is an offense against the person under AS 11.41 and is  
27 a felony under AS 11, except for a crime committed under AS 11.41.200 - 11.41.220  
28 or 11.41.260;

29 (3) a crime that is a felony and involves a victim who was a child  
30 under 18 years of age at the time of the conduct, including a crime where the  
31 perpetrator was a person responsible for the child's welfare; in this paragraph, "person

1 responsible for the child's welfare" has the meaning given in AS 47.17.290;

2 (4) a crime that is arson under AS 11.46.400 or 11.46.410.

3 (b) The department may not issue an initial license under this chapter if the  
4 applicant for the license who is a natural person or a person who is required to submit  
5 a release under AS 47.35.017(b)(5) in connection with a license has been previously  
6 convicted, within the five-year period immediately preceding the application, of any of  
7 the following crimes or of violating a law or ordinance of this or another jurisdiction  
8 with similar elements, or of an attempt, solicitation, or conspiracy to commit any of  
9 the following crimes or to violate a law or ordinance of this or another jurisdiction  
10 with similar elements:

11 (1) an assault that is a felony under AS 11.41.200 - 11.41.220;

12 (2) stalking under AS 11.41.260;

13 (3) a crime of misconduct involving controlled substances under  
14 AS 11.71.010 - 11.71.060;

15 (4) a crime involving imitation controlled substances under  
16 AS 11.73.010 - 11.73.040.

17 (c) In addition to the standards for denying an application or not issuing or  
18 renewing a license under (a) and (b) of this section, the department may not issue an  
19 initial license under this chapter if the applicant for the license who is a natural person  
20 or a person who is required to submit a release under AS 47.35.017(b)(5) in  
21 connection with the license

22 (1) has been found by a court or agency of this or another jurisdiction  
23 to have neglected or abused a child as specified by the department in regulation; or

24 (2) is <sup>4 delict - felony</sup> ~~under investigation or arrest for,~~ charged by information or  
25 complaint with, or under indictment or presentment for a crime listed in (a) or (b) of  
26 this section or is under investigation for, or is the respondent in a civil proceeding  
27 related to, the neglect or abuse of a child, unless the department finds that issuing the  
28 license does not pose a threat to the department's ability to ensure the health, safety, or  
29 welfare of children receiving care under this chapter.

*Adopted  
Capital  
Minut*

30 \* Sec. 4. AS 47.35 is amended by adding a new section to read:

31 **Sec. 47.35.021. Discretionary denial of initial license.** Regardless of

L

1 whether the applicant for licensure has met all of the other requirements under this  
 2 chapter and regulations adopted under this chapter, the department may refuse to issue  
 3 an initial license under this chapter if the applicant for the license who is a natural  
 4 person or a person who is required to submit a release under AS 47.35.017(b)(5) in  
 5 connection with the license has been convicted, within the five-year period  
 6 immediately preceding the date of the application, of any of the following offenses or  
 7 of violating a law or ordinance of this or another jurisdiction with similar elements, or  
 8 of an attempt, solicitation, or conspiracy to commit any of the following offenses or to  
 9 violate a law or ordinance of this or another jurisdiction with similar elements:

10 (1) a crime involving domestic violence, as defined in AS 18.66.990,  
 11 that is a misdemeanor under AS 11;

12 (2) assault in the fourth degree under AS 11.41.230;

13 (3) contributing to the delinquency of a minor under AS 11.51.130;

14 (4) endangering the welfare of a child in the second degree under  
 15 AS 11.51.110;

16 (5) a serious offense as defined in AS 12.62.900, except for an offense  
 17 included in AS 47.35.019;

18 (6) a crime concerning operating certain vehicles, aircraft, or  
 19 watercraft while intoxicated under AS 28.33.030, 28.33.031, AS 28.35.030,  
 20 28.35.031, and 28.35.032.

21 \* Sec. 5. AS 47.35.022(a) is repealed and reenacted to read:

22 (a) The department may not place or continue placement of a child for care for  
 23 placement under AS 47.10 in a foster home that is licensed under this chapter if the  
 24 licensee who is a natural person or a person who is required to submit a release under  
 25 AS 47.35.017(b)(5) in connection with a license has been convicted of an offense  
 26 listed in AS 47.35.019(a) or has been found by the court to have neglected or abused a  
 27 child under AS 47.35.019(c)(1).

28 \* Sec. 6. AS 47.35.022(b) is repealed and reenacted to read:

29 (b) The department may not place or continue a placement of a child for foster  
 30 care if the applicant who is a natural person or a person who is required to submit a  
 31 release under AS 47.35.017(b)(5) has been previously convicted within a five-year

*Conceptual  
Amend #1*

*withdrawn*

1 period immediately preceding the application for an offense described in  
2 AS 47.35.019(b) or is in a situation described in AS 47.35.019(c)(2) unless the  
3 applicant demonstrates to the satisfaction of the department that the placement or  
4 continued placement does not pose a threat to the department's ability to ensure the  
5 health, safety, or welfare of the children receiving care under this chapter.

6 \* Sec. 7. AS 47.35.023(b) is amended to read:

7 (b) Notwithstanding (a) of this section, if an emergency exists and a child  
8 must be immediately placed, the department [OR THE DEPARTMENT'S  
9 DESIGNEE] may issue a provisional foster home license on an emergency basis for a  
10 period of 90 days or less if the department [OR THE DEPARTMENT'S DESIGNEE]  
11 determines that the applicant meets minimal requirements for emergency conditions  
12 and the applicant agrees in writing to provide the fingerprint information described in  
13 AS 47.35.017(b) within 30 days after [OF] the placement of a child in the foster  
14 home. The department may extend a provisional foster home license issued under this  
15 subsection for one or two additional periods of up to 90 days each in order to obtain  
16 the information from the national criminal background check required under  
17 AS 47.35.017(b)(6). The department may not issue a license under this subsection  
18 before checking state [AND NATIONAL] criminal justice information available to the  
19 department under AS 12.62 and regulations adopted under AS 12.62 about the  
20 administrator or foster parent and each person who is 16 years of age or older in the  
21 foster home who will have contact with the child. If the department cannot obtain  
22 direct access to the state [AND FEDERAL] criminal justice information, the  
23 department shall request the agency having primary law enforcement responsibility for  
24 the geographic area in which the prospective foster home is located to obtain the  
25 information and provide it to the department before the license is issued under this  
26 section. If the criminal justice information readily available to the department shows  
27 an offense about which a person would be required to notify the department under  
28 AS 47.35.047(b), the department may not issue the license under this subsection. If  
29 the additional criminal justice information [AVAILABLE FROM THE  
30 FINGERPRINT SEARCH OR ANOTHER SOURCE AFTER THE LICENSE IS  
31 ISSUED] reveals that the person has a record for an offense listed in AS 47.35.019(a)

1 or (b) or is in a situation described in AS 47.35.019(c) [ONE OR MORE OF  
2 THESE OFFENSES], the department shall immediately revoke the license and move  
3 the child to an appropriate placement. The department may revoke the license and  
4 move the child to an appropriate placement if the criminal justice information  
5 available from the fingerprint search or another source after the license is issued  
6 reveals that the person has a record for an offense listed in AS 47.35.021. For  
7 purposes of obtaining criminal justice information under this subsection, the  
8 department is a criminal justice agency conducting a criminal justice activity under  
9 AS 12.62.

10 \* Sec. 8. AS 47.35.023(d) is amended to read:

11 (d) Before expiration of a provisional license, the department shall issue a  
12 biennial license for the facility or agency if (1) after inspection and investigation under  
13 (c) of this section, the department finds that the facility or agency is operating in  
14 compliance with, and meets the licensure requirements of, this chapter and regulations  
15 adopted under this chapter; (2) a [THE] ground for revocation or suspension set out  
16 in AS 47.35.130(a) or (b) [AS 47.35.130(a)(2)] does not exist; and (3) all applicable  
17 fees have been paid. The department shall prepare a summary report of its findings  
18 and recommendations for issuance of a biennial license.

19 \* Sec. 9. AS 47.35.027 is amended by adding a new subsection to read:

20 (f) Notwithstanding (a) - (e) of this section, the department may not grant a  
21 variance if the criminal record review indicates that the licensee or a person required  
22 to provide a release under AS 47.35.017(b)(5) has a conviction for an offense listed in  
23 AS 47.35.019(a) or (b).

24 \* Sec. 10. AS 47.35.045(c) is amended to read:

25 (c) The department shall renew a biennial license if the department finds that

26 (1) the licensee

27 (A) either is in compliance with this chapter and regulations  
28 adopted under this chapter or is substantially in compliance and has  
29 implemented a plan of correction, approved by the department, that is designed  
30 to bring the facility or agency into full compliance; and

31 (B) has maintained the facility or agency in good repair and is

1 in compliance with all state fire safety and environmental health and safety  
2 code requirements;

3 (2) a [THE] ground for revocation or suspension set out in  
4 AS 47.35.130(a) or (b) [AS 47.35.130(a)(2)] does not exist; and

5 (3) all applicable fees have been paid.

6 \* **Sec. 11.** AS 47.35.047(b) is repealed and reenacted to read:

7 (b) A licensee shall notify the department within 24 hours after having  
8 knowledge that an administrator, foster parent, member of the licensee's household,  
9 regular volunteer, or staff person has been

10 (1) convicted of, or is or has been under investigation or arrest for, has  
11 been charged by information or complaint with, or is under indictment or presentment  
12 for any offense listed in AS 47.35.019, 47.35.021, or a law or ordinance of this or  
13 another jurisdiction with similar elements; or

14 (2) found to have neglected or abused a child as described in  
15 AS 47.35.019(c)(1).

16 \* **Sec. 12.** AS 47.35.130 is repealed and reenacted to read:

17 **Sec. 47.35.130. Grounds for a license suspension, revocation, or**  
18 **nonrenewal.** (a) Except as provided in AS 47.35.140, the department shall revoke or  
19 decline to renew a license issued under this chapter if the criminal record review of the  
20 licensee who is a natural person or a person who is required to submit a release under  
21 AS 47.35.017(b)(5) reveals a conviction for an offense listed in AS 47.35.019(a) or  
22 (b).

23 (b) The department shall suspend a license issued under this chapter during  
24 any period of time that the licensee who is a natural person or a person who is required  
25 to submit a release under AS 47.35.017(b)(5) in connection with the license is under  
26 investigation or arrest for, charged by information or complaint with, or under  
27 indictment or presentment for a crime listed in AS 47.35.019(a) or (b) or is under  
28 investigation for, or the respondent in a civil proceeding related to, the neglect or  
29 abuse of a child, unless the department finds that not suspending the license does not  
30 pose a threat to the department's ability to ensure the health, safety, or welfare of the  
31 children receiving care under this chapter.

1 (c) The department may revoke, or decline to renew, a license issued under  
2 this chapter on one or more of the following grounds:

3 (1) failure to submit a timely and complete renewal application;

4 (2) obtaining or attempting to obtain or retain a license under this  
5 chapter by fraudulent means, by misrepresentation, or by submitting false information;

6 (3) failure to correct a violation noted in a report of investigation  
7 provided under AS 47.35.105(c) or 47.35.110(b);

8 (4) failure to comply with a final administrative order issued by the  
9 department under AS 47.35.120.

10 (5) if the licensee who is a natural person or a person required to  
11 submit a release under AS 47.35.017(b)(5) has been the subject of, is under  
12 investigation for, or is the respondent in a civil proceeding regarding the abuse or  
13 neglect of a child;

14 (6) violation of this chapter or a regulation adopted under this chapter.

15 (d) A licensee may voluntarily relinquish the license or withdraw an  
16 application for renewal.

17 \* **Sec. 13.** AS 47.35 is amended by adding a new section to read:

18 **Sec. 47.35.140. Exception for continued operation.** Notwithstanding any  
19 other provision of this chapter, the department may allow a person licensed under this  
20 chapter, other than as a provisional licensee under AS 47.35.023, to continue operating  
21 if an employee of that facility or other agency who is required to submit a release  
22 under AS 47.35.017(b)(5) discloses an offense under AS 47.35.019 or 47.35.021 if the  
23 facility or agency takes immediate action to ensure the health, safety, and welfare of  
24 the children residing at that facility or other agency, including notice to the department  
25 and removing the person with the conviction described in AS 47.35.019 or 47.35.021  
26 from contact with children at the facility or other agency.

27 \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to  
28 read:

29 **TASK FORCE ON CHILD SERVICES.** (a) There is established in the legislative  
30 branch the Task Force on Child Services to focus on public and governmental concerns about  
31 whether there are sufficient criminal background checks conducted before individuals are

1 allowed to perform services relating to children.

2 (b) The Speaker of the House of Representatives shall appoint two members of the  
3 House as voting members, one member from the majority caucus and one member from the  
4 minority caucus. The President of the Senate shall appoint two members of the Senate as  
5 voting members, one member from the majority caucus and one member from the minority  
6 caucus. The president and the speaker shall jointly appoint five members of the public who  
7 are child service providers to be the other voting members of the task force. The  
8 commissioners of public safety, health and social services, community and economic  
9 development, and education and early development, or their designees, may serve on the task  
10 force as nonvoting members. The voting members of the task force shall select a voting  
11 member to chair the task force. The public members of the task force shall serve without  
12 compensation and are not entitled to per diem or travel expenses authorized for boards and  
13 commissions under AS 39.20.180.

14 (c) The task force

15 (1) may begin work immediately upon the appointment of its full voting  
16 membership and shall meet as frequently as the task force determines necessary to perform its  
17 work;

18 (2) shall hold public hearings and may perform research related to its work;

19 (3) may meet during the interim and vote by teleconference;

20 (4) shall report its written findings and give a copy of its proposed legislation  
21 and other recommendations to the legislature by the first day of the First Regular Session of  
22 the Twenty-Third Alaska State Legislature; and

23 (5) is terminated upon the convening of the First Regular Session of the  
24 Twenty-Third Alaska State Legislature.

25 \* **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to  
26 read:

27 **TRANSITIONAL PROVISION; REGULATIONS.** The Department of Health and  
28 Social Services may begin the process of developing and adopting regulations to implement  
29 this Act. A regulation adopted under this section takes effect under AS 44.62 (Administrative  
30 Procedure Act) but not before July 1, 2002.

31 \* **Sec. 16.** Sections 1 - 13 of this Act take effect July 1, 2002.

1

\* Sec. 17. Sections 14 and 15 of this Act take effect immediately under AS 01.10.070(c).

# LEGAL SERVICES

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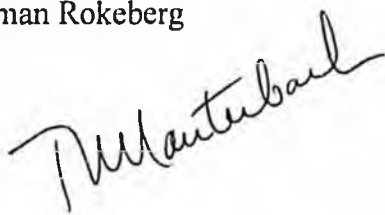
## MEMORANDUM

April 23, 2002

**SUBJECT:** Background checks; task force (CSHB 180(JUD))

**TO:** Representative Norman Rokeberg  
Attn: Heather

**FROM:** Terri Lauterbach  
Legislative Counsel



Enclosed is CSHB 180(JUD), as passed out of the House Judiciary Committee. There are two issues that arise from the changes made by the committee.

The first issue is a potential equal protection problem with the addition of "indicted" on page 4, line 25, of the CS. I think a court would probably conclude that persons under presentment are similarly situated to persons under indictment, both situations being after a grand jury process. A court would almost as likely conclude that a person charged with a crime by information or complaint is similarly situated to a person under indictment or presentment for a crime. Therefore, the use only of the term "indicted" treats members of a similarly situated class differently, denying foster home placement to some but not others. The equal protection clause may not allow that.

The second issue is not a constitutional problem but, perhaps, a practical one. It concerns the task force in sec. 14 of the CS. Although the committee changed the due date for the report by the task force, the committee did not change the termination date of the task force. The task force will not officially exist after January 21, 2003. I guess the legislature is free to accept a report when the task force no longer exists, but I don't know if I've ever seen this type of date mixture before in a bill or resolution. <sup>1</sup>

If I may be of further assistance, please advise.

TML:med  
02-404.med

Enclosure

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<sup>1</sup> I have seen legislation in which a task force stays in existence after its report is turned in (so that the task force can officially testify at hearings on its proposed legislation), but I don't think I've seen legislation in which a task force is terminated and then turns in its report.

4-22-02  
Amended

**CS FOR HOUSE BILL NO. 180(HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVES MCGUIRE, Murkowski, Dyson, Croft**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to persons who provide services related to children; establishing a  
2 legislative task force on child services; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 47.35.010(a) is amended to read:

5 (a) The department may

6 (1) license and supervise foster homes, residential child care facilities,  
7 semi-secure residential child care facilities, secure residential psychiatric treatment  
8 centers, child placement agencies, and maternity homes;

9 (2) investigate applicants, licensees, and persons that the department  
10 reasonably believes are operating a facility without a license in violation of this  
11 chapter;

12 (3) adopt regulations to implement the provisions of this chapter,  
13 including regulations establishing licensure and renewal procedures, standards, and  
14 fees; establishing requirements for operation of facilities or agencies licensed under

1 whether the applicant for licensure has met all of the other requirements under this  
2 chapter and regulations adopted under this chapter, the department may refuse to issue  
3 an initial license under this chapter if the applicant for the license who is a natural  
4 person or a person who is required to submit a release under AS 47.35.017(b)(5) in  
5 connection with the license has been convicted, within the five-year period  
6 immediately preceding the date of the application, of any of the following offenses or  
7 of violating a law or ordinance of this or another jurisdiction with similar elements, or  
8 of an attempt, solicitation, or conspiracy to commit any of the following offenses or to  
9 violate a law or ordinance of this or another jurisdiction with similar elements:

10 (1) a crime involving domestic violence, as defined in AS 18.66.990,  
11 that is a misdemeanor under AS 11;

12 (2) assault in the fourth degree under AS 11.41.230;

13 (3) contributing to the delinquency of a minor under AS 11.51.130;

14 (4) endangering the welfare of a child in the second degree under  
15 AS 11.51.110;

16 (5) a serious offense as defined in AS 12.62.900, except for an offense  
17 included in AS 47.35.019;

18 (6) a crime concerning operating certain vehicles, aircraft, or  
19 watercraft while intoxicated under AS 28.33.030, 28.33.031, AS 28.35.030,  
20 28.35.031, and 28.35.032.

21 \* Sec. 5. AS 47.35.022(a) is repealed and reenacted to read:

22 (a) The department may not place or continue placement of a child for care for  
23 placement under AS 47.10 in a foster home that is licensed under this chapter if the  
24 licensee who is a natural person or a person who is required to submit a release under  
25 AS 47.35.017(b)(5) in connection with a license ~~has a conviction for an offense listed~~  
26 in AS 47.35.019(a) or has been found by the court to have neglected or abused a child  
27 under AS 47.35.019(c)(1). *has been indicted for or convicted of*

28 \* Sec. 6. AS 47.35.022(b) is repealed and reenacted to read:

29 (b) The department may not place or continue a placement of a child for foster  
30 care if the applicant who is a natural person or a person who is required to submit a  
31 release under AS 47.35.017(b)(5) has been previously convicted within a five-year

*Conceptual  
Amendment  
#1  
Adopted*

*Conceptual Amendment #3*

*Adopted*

1 allowed to perform services relating to children.

2 (b) ~~The task force shall be chaired by the chair of the Administrative Regulation~~  
3 ~~Review Committee, who shall be a voting member of the task force.~~ The Speaker of the  
4 House of Representatives shall appoint <sup>three</sup> ~~two~~ additional members of the House as voting  
5 members. <sup>one of whom shall serve as chair</sup> The President of the Senate shall appoint two members of the Senate as voting  
6 members. The chair shall appoint four members of the public who are child service providers  
7 to be the other voting members of the task force. The commissioners of public safety, health  
8 and social services, community and economic development, and education and early  
9 development, or their designees, may serve on the task force as nonvoting members. The  
10 public members of the task force shall serve without compensation but are entitled to per diem  
11 and travel expenses authorized for boards and commissions under AS 39.20.180.

*Adopted  
Conceptual  
Amend  
#4  
# of house  
&  
# of public*

12 (c) The task force

13 (1) may begin work immediately upon the appointment of its full voting  
14 membership and shall meet as frequently as the task force determines necessary to perform its  
15 work;

16 (2) shall hold public hearings and may perform research related to its work;

17 (3) may meet during the interim and vote by teleconference;

18 (4) shall report its written findings and give a copy of its proposed legislation  
19 and other recommendations to the legislature by <sup>February</sup> ~~January 21, 2003~~; and

*separate parties  
2 House  
2 Senate  
5 public  
Choose  
on  
Chairman  
Speaker  
won't  
to share  
to public  
members*

20 (5) is terminated upon the convening of the First Regular Session of the

21 Twenty-Third Alaska State Legislature.

*Conceptual  
Amendment #2  
Adopted*

22 \* Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 TRANSITIONAL PROVISION; REGULATIONS. The Department of Health and  
25 Social Services may begin the process of developing and adopting regulations to implement  
26 this Act. A regulation adopted under this section takes effect under AS 44.62 (Administrative  
27 Procedure Act) but not before July 1, 2002.

28 \* Sec. 16. Sections 1 - 13 of this Act take effect July 1, 2002.

29 \* Sec. 17. Sections 14 and 15 of this Act take effect immediately under AS 01.10.070(c).

# Alaska State Legislature



Session  
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Chair, House Special Committee  
on Economic Development, Trade  
and Tourism

Chair, Joint House and Senate  
Administrative Regulation and  
Review Committee

Member  
Resources Committee  
Rules Committee

**Representative Lesil McGuire**  
*House District 17*

## **SPONSOR STATEMENT**

### **HB 180**

**"An Act relating to persons who provide services related to children."**

In order to continually seek ways to better protect Alaska's children in certain child care facilities, precautions must be taken in order to ensure that they are being supervised by individuals who are moral, responsible, and committed to their positive growth.

HB 180 conforms to the Adoption & Safe Families Act (ASFA) passed by Congress in 1997, which takes further steps to promote safety and permanence of children.

HB 180 brings current statutes into compliance with federal licensing requirements in the areas of prohibited crimes and provides standards for mandatory denial of licenses to foster homes, residential childcare facilities, residential psychiatric treatment centers, child placement agencies and maternity homes. HB 180 limits the State from approving or licensing any person that has been convicted of a felony involving child abuse or neglect, spousal abuse, a crime against a child, a crime involving violence and other offenses. HB 180 also requires licensed providers to notify the department if they discover that an administrator, member of their household, foster parent, volunteer or staff person has been convicted of any serious offense.

HB 180 also creates a "Task Force" to research the topic of criminal background checks for other entities that provide services to children.

Not only does HB 180 seek to shield children from those who have past records of misconduct, but also from those who could possibly be poor role models for children. HB 180 not only protects children, but also deters those individuals who have a history of misconduct from pursuing similar behavior in the future.

## Summary for CS for HB 180

This bill makes amendments to AS 47.35, the department's licensing statutes and provides for a legislative task force on child services.

This proposed legislation is intended to bring the current statute into compliance with federal licensing requirements in the areas of prohibited crimes and provides standards for mandatory denial of licenses and guidelines that allow for the discretion of the department in making some licensing decisions.

Section 1 – The proposed amendment in this section of the bill would allow the department to recognize licenses issued by other entities that have state or federal licensing authority.

Examples of this are municipalities, tribes and child placement agencies. Child placement agencies currently perform all the same licensing functions as the department. The intent of this amendment is to be able to increase the number of foster homes available for children.

Section 2 – This section clarifies the requirement that school district and other educational entities that provide residential type programs for students where there is 24-hour care, are subject to licensure by the department.

Section 3 – The purpose of this new section is to bring the current statute into compliance with federal licensing requirements in the areas of prohibited crimes and provides standards for mandatory denial of licenses.

Federal law states that the state may not approve or license any prospective foster or adoptive parent, the prospective foster or adoptive parent has been convicted of a felony involving: (1) Child abuse or neglect; (2) Spousal abuse; (3) A crime against a child or children (including child pornography); or, (4) A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.

In addition, the state may not approve or license any prospective foster or adoptive parent if foster or adoptive parent has, within the last five years, been convicted of a felony involving: (1) Physical assault; (2) Battery; or, (3) A drug-related offense.

Section 4 –adds a new section to AS 47.35, which discusses additional offenses, not listed in the federal requirements, under which the state would have the discretion to deny or not issue a license.

Sections 5 and 6 – These sections repeal and reenact AS 47.35.022 regarding foster care placement. It essentially incorporates the proposed new sections into existing statutes.

Section 7 – This section incorporates the new AS 47.35.19 regarding denials into the guidelines for making emergency placements. In addition, the department may revoke an emergency license if background checks indicate the existence of any discretionary offenses identified in the new AS 47.35.021.

Section 8 – clarifies that before issuing a biennial license, the department needs to make sure that no situation exists that would result in a revocation or suspension of a license.

Section 9 –the department may not issue a variance if a background check indicates a conviction for a criminal offense listed in new AS. 47.35.19.

Section 10 – clarifies that before renewing a biennial license, the department needs to make sure that no situation exists that would result in a revocation or suspension of a license.

Section 11 – This section amends AS 47.35.047(b) which requires licensed providers to notify the department if they discover that an administrator, member of their household, foster parent, volunteer or staff person has been convicted of, charged with or is under investigation for any serious offense. The amendment incorporates the newly added sections AS 47.35 019 and 47.35.021.

Section 12 –covers grounds for the revocation or nonrenewal of an existing license. It restructures the existing statute by incorporating the new sections to AS 47.35 and adds suspension to the actions the department may take.

Section 13 adds a subsection to allow licensed providers to continue operating if an employee discloses a serious offense, provided the employer takes immediate

action , including notice to the department to ensure the health and safety of the children.

Section 14 – implements a legislative task force on children’s services

Section 15 - allows the department to develop and adopt any regulations necessary to implement the new statutes and allows for the new statute to take effect July 1, 2002.

THE  
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DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES



**DRAFT**

**FISCAL NOTE**

**STATE OF ALASKA  
2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CS HB 180 (HES)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Health & Social Services  
Title: BACKGROUND CHECKS FOR CHILD SERVICE PROVIDERS BRU: Family and Youth Services  
Component: Front Line Social Workers  
Sponsor: MCGUIRE  
Requestor: HOUSE (HES) Component Number: 2305

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( 0 )</b>						
---------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Othe (Specify Type--do not abbrevia						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: \_\_\_\_\_

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

For the Department of Health and Social Services, the intent of this proposed legislation is to amend AS 47.35, which governs the licensing of foster homes, residential child care facilities, child placement agencies, child treatment facilities and maternity homes.

This proposed legislation also is intended to bring the current statute into compliance with federal licensing requirements in the areas of prohibited crimes and provides standards for mandatory denial of licenses and guidelines that allow for the discretion of the department in making some licensing decisions.

Should this bill become law, the department does not anticipate any fiscal impact.

Prepared by: Theresa Tanoury, Director Phone 465-3191  
Division: Family & Youth Services Date/Time 04/12/2002  
Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 04/16/2002  
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office



**Children's Defense Fund**  
*America's Strongest Voice For Children*

**Action Council**



## Issue Basics

### Adoption and Safe Families Act (ASFA)

#### What is the Adoption and Safe Families Act?

The Adoption and Safe Families Act (ASFA), Public Law 105-89, was enacted in November 1997 with bipartisan support. ASFA amends the 1980 Adoption Assistance and Child Welfare Act by taking further steps to promote safety and permanence for children who have been alleged or determined to be abused and/or neglected. Congress and the Administration were especially concerned about reports that children were being left in, or returned from foster care to, unsafe family situations and that an estimated 100,000 children were in foster care waiting for adoptive families. ASFA includes a number of specific provisions that require or provide incentives for states to change policies and practices to better promote children's safety and adoption or other permanency options. ASFA also requires the Department of Health and Human Services (HHS) and the U.S. General Accounting Office (GAO) to prepare several reports to assist Congress in making future decisions on behalf of children in the child welfare system. ASFA provides a unique opportunity to begin to move children who have been lingering in foster care without permanent plans into permanent homes. By clearing the system of these cases, the child welfare system should better be able to respond to children just entering care so they and their families can get the help they need and prompt permanency decisions can be made.

#### What does ASFA do to help keep children safe?

ASFA enhances children's safety by:

- Specifying that a child's health and safety must be paramount when decisions are made about the initial removal of a child from his or her home, the return home, and the care a child receives while in foster care or in an adoptive family.
- Clarifying that there is nothing in federal law requiring that a child remain in or be returned to an unsafe home. Federal law requires that state child welfare agencies make reasonable efforts to prevent the unnecessary placement of children in foster care and to reunify children in foster care with their families. ASFA includes specific examples where it would not be reasonable to require services to reunify children with their families and invites states to establish others in state law, if they have not already. The situations specified in ASFA where reasonable efforts are not required include where a court determines that a parent has committed murder or voluntary manslaughter of another of his/her children or a felony assault that results in serious bodily injury to his/her child; a parent has subjected the child to aggravated circumstances as defined in state law; or the parental rights to a sibling of the child have been involuntarily terminated.

#### What are the primary ways that ASFA promotes adoption and other permanency options for children?

ASFA intends to promote adoption and other permanency options by:

- Establishing expedited timelines for determining whether children who enter foster care can be moved into

permanent homes promptly – their own homes, adoptive homes or other planned permanent living arrangements. Two new timelines are imposed. First, permanency hearings must be held for children no later than 12 months after they enter foster care (6 months earlier than under prior law). Second, state agencies must review their existing caseloads and track new children entering care so that termination of parental rights (TPR) proceedings will be initiated for children who have been under the responsibility of the state for 15 out of the most recent 22 months, unless, in individual cases, certain exceptions apply.

- Requiring that termination of parental rights proceedings be initiated in additional circumstances – when a child is an abandoned infant, or in cases where a parent has committed murder, voluntary manslaughter, or felony assault of another of his/her children. Again, in individual cases, certain exceptions might be applied even in these situations.
- Offering adoption incentive payments for states that increase their adoptions of foster children over a base year. States that increase the number of adoptions of foster children in a given fiscal year over a base year will receive a bonus for each child adopted above the base year number.

### **Does the new TPR provision mean that parents' rights automatically will be terminated after a child is in care for a defined period of time?**

No. ASFA requires that termination of parental rights proceedings be *initiated* when a child is in foster care for 15 out of the most recent 22 months. Once the TPR petition is filed and the proceedings are initiated, a court must determine first whether there are grounds for termination of the parents' rights (eventually both parents rights must be terminated for a child to be free for adoption), and second whether it would be in the child's best interest to do so.

### **What exceptions does ASFA provide to the requirement that a TPR petition be filed?**

ASFA clearly associates termination of parental rights with adoption. It requires that the state agency, concurrently with its filing of a TPR petition, must identify, recruit, process, and approve a qualified family for adoption. It then specifies several circumstances that may make termination inappropriate at a particular time. ASFA includes three circumstances in which a decision could be made in an individual case that a TPR petition should not be filed, even though the child has been in care for 15 out of 22 months or one of the serious offenses by a parent against a child has been committed.

The exceptions are:

1. The child is in the care of a relative;
2. The state agency documents a compelling reason why filing is not in the best interest of the child; or
3. The state agency has not provided to the child's family, consistent with the time period in the case plan, the services deemed necessary to return the child to a safe home.

The recently issued ASFA regulations emphasize the importance of these exceptions being applied on a case-by-case basis. Decisions about the appropriateness of pursuing termination of parental rights, just like decisions about reasonable efforts and permanency plans, should be based on the individual needs of each child and family. It also is important to remember that ASFA requires that permanency plans for the child continue to be scrutinized after the first permanency hearing until a child is in a permanent placement. The court must continue to make a determination that reasonable efforts to move a child toward permanence are being made, there must be reviews at least every six months of the child's status, and a subsequent permanency hearing must be held at least every twelve months.

In making decisions about the appropriateness of initiating termination of parental rights proceedings, efforts should be made not to overburden the courts with cases in which termination is neither necessary nor appropriate. Clearly if adoption is the plan, termination is both necessary and appropriate. However, if the permanency plan is something else, such as permanent placement with a legal guardian for whom adoption has been ruled out, the steps to move toward that goal will be different.

### **Which children in care do the new ASFA permanency timelines apply to?**

The new timelines in ASFA apply to all children entering foster care after November 19, 1997 (the effective date of ASFA), as well as those children already in care on that date.

- The timing of permanency hearings for all children will be moved up to within 12 months of the date the child enters foster care, or in the case of children already in care, 12 months from the last permanency hearing (referred to previously as a "dispositional" hearing).
- The 15 out of the most recent 22 months clock for filing a TPR petition begins running when a child enters foster care, for those entering after November 19, 1997. For children already in care on November 19, 1997, states are required to phase in the filing of TPR petitions beginning with children for whom the permanency plan is adoption or who have been in care the longest. Generally, a state agency has 18 months from the end of its state's first legislative session that began after November 19, 1997, to review its caseload and to file TPRs for the children for whom they are appropriate.

### **Is it true that a state will get a bonus for every foster child who is adopted?**

No. ASFA provides for a bonus to a state only for adoptions that represent an increase over the number of adoptions achieved in an established base period in that state. For example, if 250 adoptions is the base level, and 253 children are adopted in a specific fiscal year, the state will receive bonus payments for only three children. The bonuses are \$4,000 for each foster child adopted above the base and an additional \$2,000 (\$6,000 total) if the child has special needs and is eligible for the federal Adoption Assistance program. (A capped amount of \$20 million was originally set aside for these bonuses, and that amount has been increased to \$43 million for at least FY 2000). It is also important that ASFA requires states to use their bonus funds for child welfare services, including post adoption services.

### **What other provisions in ASFA will help promote permanence for children?**

The following provisions in ASFA all were intended by Congress to help promote prompt permanence for children in foster care:

- **Reasonable efforts toward permanence.** ASFA explicitly requires that when a child in foster care cannot be reunified with family members, state agencies must make reasonable efforts to place the child in a timely manner in accordance with the child's permanency plan and to complete whatever steps are necessary to finalize the plan. These steps, including specific recruitment efforts to find adoptive families, must be documented in the child's case plan. Consistent with this, ASFA clarifies that reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts to reunify a child.
- **Continuation of the Family Preservation and Support Services Program.** ASFA changes the name of this program to the Promoting Safe and Stable Families program and continues funding for three years, increasing it \$20 million each year. It also expands the uses of the program funds to explicitly require that significant portions of the funds be used for family reunification and adoption promotion activities, as well as for family support and family preservation activities. These were the only new resources in ASFA, other than the adoption bonuses.
- **Attention to geographic barriers to adoption.** ASFA requires state agencies to develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children. States also are prohibited from denying or delaying a child's adoptive placement when an approved family is available outside of the jurisdiction.
- **Expanded health coverage for adopted children with special needs.** States not already providing health coverage to adopted children with special needs for whom there is an adoption assistance agreement through Medicaid or their own state funds are required to do so.
- **Notice and right to be heard for certain caregivers.** ASFA requires that foster parents and any pre-adoptive parents or relatives caring for a child in foster care must be given notice of, and an opportunity to be heard in, any reviews or hearings involving the child. Although some states already do this, others do not. ASFA specifically states that it is not requiring party status for all of these caregivers.
- **Continuing eligibility for federal adoption assistance.** Children who were previously adopted and eligible for the federal Adoption Assistance program under Title IV-B of the Social Security Act, but whose earlier adoption was

dissolved (because the parent died or the parents' rights were terminated) will continue to be eligible for Title IV-E Adoption Assistance payments if adopted again after October 1, 1997.

- **Use of Federal Parent Locator Service.** State child welfare agencies are authorized to use the Federal Parent Locator Services to assist in locating absent parents for the purpose of making or enforcing child custody or visitation orders, including termination of parental rights proceedings.
- **Congressional encouragement of standby guardianship laws.** ASFA includes a Sense of the Congress that states should have laws and procedures that would permit a parent who is chronically ill or near death to designate a standby guardian for their children without surrendering their own rights. This standby guardian could step in temporarily when the parent is incapacitated, and permanently if the parent should die.

### **Does ASFA provide any increased flexibility to states to protect children and to ensure them permanence?**

Yes. ASFA specifically expands the ability of states to obtain federal waivers to demonstrate new approaches to child welfare reform. ASFA provides for HHS to grant such waivers to up to ten states a year. To date, 30 waivers have been awarded in 21 states and the District of Columbia. States have chosen to use their federal foster care funds more flexibly to establish subsidized legal guardianship programs for relatives caring for children in foster care; offer wrap-around services to young people in foster care with special needs; coordinate substance abuse treatment and child protection services; and to offer preventive in-home services, reunification services, or enhanced services for other children in foster care.

### **What reports to Congress are required by ASFA?**

The Secretary of HHS was required to prepare the following reports and submit them to the House Ways and Means and Senate Finance Committees in Congress. Those that are completed are accessible on-line at [www.acf.dhhs.gov/programs/cb](http://www.acf.dhhs.gov/programs/cb):

- *Blending Perspectives and Building Common Ground: A Report to Congress on Substance Abuse and Child Protection* (Released April 1999).
- *Progress Report to the Congress on Conducting A Study of Performance-Based Financial Incentives in Child Welfare* (Released 1999).
- "Notice of the Final List of Child Welfare Outcomes and Measures" (Published in the *Federal Register* on August 20, 1999, Volume 64, Number 161).
- *Secretary's Report on Kinship Care* (Forthcoming) This report is to discuss the extent of the placement of children in foster care with relatives and recommendations for appropriate strategies to support these caregivers. It is to be prepared by the Secretary of HHS after consultation with the Kinship Care Advisory panel established by ASFA.
- *General Accounting Office Report on Inter-jurisdictional Adoptions.* (Forthcoming) GAO must conduct a study to consider how to improve procedures and policies to facilitate timely and permanent adoptions of children across state and county jurisdictions. It must forward the study and any recommendations to improve procedures to Congress.

### **When did these new ASFA requirements take effect in the states?**

The ASFA requirements were effective immediately unless a state indicated that it needed new legislation to comply with the new ASFA provisions, which most did. In that case, the changes became effective in the state at the beginning of the first quarter that begins after the end of the first state legislative session after ASFA was enacted. This means that in a state where the 1998 legislative session ended in April 1998, ASFA provisions became effective on July 1, 1998. But in a state that just passed its ASFA legislation on February 1, 1999, it went into effect on April 1, 1999.

### **How many states have passed legislation to comply with ASFA?**

All 50 states and the District of Columbia have passed legislation in response to ASFA. The nature of the legislation varies significantly. In some states, like Illinois, California, and Virginia, the changes made were relatively minor because major changes had been made earlier in response to other reform efforts in the states in anticipation of ASFA. Many states confined their changes to those required by ASFA.

### What is known about state activities undertaken in response to ASFA?

The National Conference of State Legislatures (NCSL) has prepared useful summaries of the ASFA legislation passed by each state, as well as an analysis of selected provisions. These materials can be accessed through NCSL's website at [www.ncsl.org](http://www.ncsl.org). A State Legislative Report, *1998 State Legislative Responses to the Adoption and Safe Families Act of 1997*, is also available on their website, or from NCSL at (303) 830-2200.

The General Accounting Office also issued a report, *Foster Care: States' Early Experiences Implementing the Adoption and Safe Families Act* (December 1999), which can be obtained online at [www.gao.gov](http://www.gao.gov).

### What has been done on the federal level to implement ASFA?

HHS's Administration for Children and Families (ACF) has conducted numerous briefings and training sessions for states, localities, and others. On January 25, 2000 it also issued final regulations

implementing the foster care provisions of ASFA. These regulations also established procedures for Federal review of State Child and Family Services Plans, review of state eligibility for federal Title IV-E funds, and implementation of the Multi-Ethnic Placement Act (MEPA).

For a summary of the final ASFA regulations, consult the CDF publication, "Implementing the Adoption and Safe Families Act: An Overview of the Federal Regulations." To request a copy, call Cynthia Kirkland at (202) 662-3568. The complete text of the final regulations can be accessed on-line at [www.access.gpo.gov](http://www.access.gpo.gov). On February 17, 2000, the House Ways and Means Subcommittee on Human Resources held a hearing on the new child and family service review system. Testimony from that hearing is available at [www.house.gov/ways\\_means](http://www.house.gov/ways_means). For a more detailed side-by-side comparison of the final regulations, public comments and federal child welfare law, contact Georgetown University Law Center Federal Legislation Clinic at (202) 662-9595 or access its website online at [www.law.georgetown.edu/clinics/flc.index.html](http://www.law.georgetown.edu/clinics/flc.index.html).

### Special looks at ASFA

In addition to CDF and NCSL, a variety of other organizations and agencies are publishing special looks at the new law. Other resources include:

- *P.L. 105-89, Adoption and Safe Families Act of 1997, Issues for Tribes and States Serving Indian Children* is a November 1999 publication by the National Indian Child Welfare Association and the National Resource Center for Organizational Improvement and can be obtained by calling (207) 780-5810.
- *The Adoption and Safe Families Act: Exploring the Opportunity for Collaboration Between Child Mental Health and Child Welfare Service Systems* is a 1999 publication by the National Technical Assistance Center for Children's Mental Health at Georgetown University's Child Development Center. To order a copy, call (202) 687-8803.

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For more information about child welfare services, go to the Children's Defense Fund web site.

STATE OFFICE

# ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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Wrangell  
Pres. Wrangell Chapter

January 31, 2002

Representative Lesil McGuire  
State Capitol  
Juneau, AK 99801-1182

Dear Representative McGuire:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing House Bill 180 (22-LS0642\O) requiring child service providers to obtain criminal background checks for child service workers.

The APOA State Board of Directors recently met and after discussing proposed legislation, decided to unanimously support this bill.

We believe that this legislation will provide additional protection for children who are supervised, trained or treated by a child services worker, while at the same time protecting the disclosure rights of the child services applicant.

Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

Leo Brandlen  
State President

cc: Rep. Lisa Murkowski  
Rep. Fred Dyson

FEB 07 2002

Representative\_Reggie\_Joule <Representative\_Reggie\_Joule@legis.state.ak.us>,  
Representative\_Mary\_Kapsner <Representative\_Mary\_Kapsner@legis.state.ak.us>,  
Representative\_Beth\_Kerttula <Representative\_Beth\_Kerttula@legis.state.ak.us>,  
Representative\_Vic\_Kohring <Representative\_Vic\_Kohring@legis.state.ak.us>,  
Representative\_Albert\_Kookesh <Representative\_Albert\_Kookesh@legis.state.ak.us>,  
Representative\_Ken\_Lancaster <Representative\_Ken\_Lancaster@legis.state.ak.us>,  
Representative\_Beverly\_Masek <Representative\_Beverly\_Masek@legis.state.ak.us>,  
Representative\_Carl\_Morgan <Representative\_Carl\_Morgan@legis.state.ak.us>,  
Representative\_Carl\_Moses <Representative\_Carl\_Moses@legis.state.ak.us>,  
Representative\_Scott\_Ogan <Representative\_Scott\_Ogan@legis.state.ak.us>,  
Representative\_Drew\_Scalzi <Representative\_Drew\_Scalzi@legis.state.ak.us>,  
Representative\_Gary\_Stevens <Representative\_Gary\_Stevens@legis.state.ak.us>,  
Representative\_Jim\_Whitaker <Representative\_Jim\_Whitaker@legis.state.ak.us>,  
Representative\_Bill\_Williams <Representative\_Bill\_Williams@legis.state.ak.us>,  
Representative\_Peggy\_Wilson <Representative\_Peggy\_Wilson@legis.state.ak.us>,  
Representative\_Eric\_Croft <Representative\_Eric\_Croft@legis.state.ak.us>,  
Representative\_Joe\_Green <Representative\_Joe\_Green@legis.state.ak.us>,  
Representative\_Eldon\_Mulder <Representative\_Eldon\_Mulder@legis.state.ak.us>,  
Representative\_Kevin\_Meyer <Representative\_Kevin\_Meyer@legis.state.ak.us>,  
James Brown <jbrown@ktuu.com>, Stancliff Sue <Sue\_Stancliff@legis.state.ak.us>

Last year **Lesil McGuire** introduced a bill (HB 180) that would require **Criminal History Background Checks** on all individuals that work with youth groups.

I urge you to support this legislation.

**This is a no brainer.**

**It is a Non Partisan issue.**

All of you have a child that you care for. Help protect them.

I would be willing to attend any hearing and testify. If you need any additional information please contact me.

Please respond to this email as I will forward your positive support response to your constituents.

Thanking you for your support in advance.

Jack F. Bowen  
jfb1@alaska.net  
(907)349-7487 HM  
(907)762-1546 WK  
(907)227-7053 Cell

- Warm regards, Lorrie Lundquist

Lorrie Lundquist wrote:

Dear Rep McGuire: I wanted to make contact with you and inquire about any further information you could add about HB 180 that you introduced last session. Thank you so much for introducing it and I want to be part of any further support that I could offer to assist in it passing. Please refer to enclosed correspondence already written regarding my interest in this bill. Thanks so much for your time and energy in bringing this bill to the legislature! Hope to make contact with you. Lorrie Lundquist MEd

----- Original Message -----

From: Lorrie Lundquist

"Representative\_Joe\_Hayes" <Representative\_Joe\_Hayes@legis.state.ak.us>,  
"Representative\_Jeannette\_James" <Representative\_Jeannette\_James@legis.state.ak.us>,  
"Representative\_Reggie\_Joule" <Representative\_Reggie\_Joule@legis.state.ak.us>,  
"Representative\_Mary\_Kapsner" <Representative\_Mary\_Kapsner@legis.state.ak.us>,  
"Representative\_Vic\_Kohring" <Representative\_Vic\_Kohring@legis.state.ak.us>,  
"Representative\_Ken\_Lancaster" <Representative\_Ken\_Lancaster@legis.state.ak.us>,  
"Representative\_Scott\_Ogan" <Representative\_Scott\_Ogan@legis.state.ak.us>,  
"Representative\_Jim\_Whitaker" <Representative\_Jim\_Whitake@legis.state.ak.us>,  
"Representative\_Peggy\_Wilson" <Representative\_Peggy\_Wilson@legis.state.ak.us>,  
"Representative\_Joe\_Green" <Representative\_Joe\_Green@legis.state.ka.us>,  
"Representative\_Kevin\_Meyer" <Representative\_Kevin\_Meyer@legis.state.ak.us>  
CC: <james.brown@ktuu.com>

To All,

I highly support what Jack Bowen is trying to accomplish here. As a coach and father of two active girls involved in multiple sports, this is easy legislation to enact for their protection. The cost of required background checks is nothing compared to that paid by victims of these preventable crimes.

Sincerely,

*Kevin Smiley*  
10846 Goodpaster Circle  
Eagle River, AK 99577

Original by Jack Bowen sent 19 February:

## **To All Alaska State Legislators:**

I don't know if you have noticed but in the past weeks there have been several TV news broadcasts and articles in the Anchorage Daily News that relate to:

SEXUAL CONTACT, DRUG CHARGES or HOMICIDE by an Adult to a Minor.

### **Is this unusual? No!**

If you look at the last several years many of the youth of our community (The State of Alaska) have been assaulted by or became the victims of predators.

### **Who did this?**

Anchorage - Teacher / Hockey Coach, Sexual contact.

Anchorage - Teacher / Band Instructor, Bartlett High School, Sexual contact.

Homer - Fire Chief, Sexual contact.

Wasilla - Teacher - 3<sup>rd</sup> degree Sexual Abuse of a minor (2-9-01).

Juneau - Deputy Labor Commissioner - Sexual Harassment (2-9-01).

Manokotak - Victim, 12 year old girl - Homicide (2-14-01).

Fairbanks - Minister - Baptist Church, 12 counts (6-1st degree Sexual Abuse of minor, 5-2nd degree Sexual Abuse of minor, 1-1st degree Indecent Exposure) (2-4-01)

Anchorage - Junior Aces Hockey Coach - Cocaine Possession

Fairbanks - Boys & Girls Club employee - 2 Counts, 2nd degree Sexual Assault of minor. (2-17-01)

Sitka - Victim, 12 year old girl - 4 counts Sexual Abuse (2-18-01)

And, these are just a few of the violations, the list goes on!

## **The State of Alaska needs a law that requires:**

**That any organization that provides youth services should be required by state law to have a yearly background check conducted on all employees or volunteers.**

**That anyone who works with the youth of our community should be required by state law to have a background check conducted on them.**

**That any organization or youth services provider who does not have background checks conducted on employees or volunteers should lose any limit of liability and their insurance company should be required to pay any and all judgments without the right to appeal the size of the judgment.**

**There should be no exclusions of a background check due to the proverbial "Grandfather" clause.**

**The history of the past shows that many of the offenders fall into this category.**

## **Do You Know!**

**Alaska has one of the highest rates of child abuse in the nation.**

**A background check by the Alaska State Troopers only costs \$20.00.**

**A background check by the FBI with fingerprints (Through the Alaska State Troopers) only costs \$99.00.**

**Is YOUR child's life and future worth less than \$100.00?**

**Please contact me by email if I can assist you in any way.**

**Jack F. Bowen**

[jfb1@alaska.net](mailto:jfb1@alaska.net)

Representative\_Mary\_Kapsner <Representative\_Mary\_Kapsner@legis.state.ak.us>,  
Representative\_Vic\_Kohring <Representative\_Vic\_Kohring@legis.state.ak.us>,  
Representative\_Ken\_Lancaster <Representative\_Ken\_Lancaster@legis.state.ak.us>,  
Representative\_Scott\_Ogan <Representative\_Scott\_Ogan@legis.state.ak.us>,  
Representative\_Jim\_Whitaker <Representative\_Jim\_Whitaker@legis.state.ak.us>,  
Representative\_Peggy\_Wilson <Representative\_Peggy\_Wilson@legis.state.ak.us>,  
Representative\_Joe\_Green <Representative\_Joe\_Green@legis.state.ak.us>,  
Representative\_Kevin\_Meyer <Representative\_Kevin\_Meyer@legis.state.ak.us>

CC: "Marlow, Lael & Mark" <LaeMar@aol.com>,  
"Paramount Supply Co." <paramountsupply@gci.net>, "Pate, Ken L." <Ken.Pate@veco.com>,  
AK Bluesman <akbluesman@yahoo.com>, Anderson Stewart <meridian@ak.net>,  
"Axelson, Keith" <Keith.Axelson@veco.com>, Billy & Marie <wcbmcb@gci.net>,  
"Connors-David, Sheri" <Sheri.Connors-David@veco.com>,  
"Gorne, Sheri L." <Sheri.Gorne@veco.com>,  
"james.grimes@AKANCH.ANG.AF.MIL" <james.grimes@AKANCH.ANG.AF.MIL>,  
Jessee Boullion <good\_ol\_snarf@hotmail.com>, Jim Newell <jim.newell@wsfp-ak.com>,  
Katherine Martin <katemartin13@home.com>, Lisa Allegrucci <sftblgirl24@hotmail.com>,  
"Steffens, Garry" <aktrivia@alaska.net>, tonya brown <browntf1@aol.com>,  
Tim Twohy <tdot2e@mtaonline.net>, "Troy & LouAnne T." <larz@gci.net>

It appears that legislation will be introduced within the next week to require background checks for individuals who work with the youth of our communities.

please email your friends and neighbors to email the Alaska State Legislature to support this proposed law. It is very important that the legislature receive notification of your support and our unity to require background checks.

I will forward copies of this legislate am soon as I receive it.

Thank You,  
Jack Bowen

PS: The email list of the Legislature is now correct. I think!

Representative\_Reggie\_Joule@legis.state.ak.us (Representative\_Reggie\_Joule),  
Representative\_Richard\_Foster@legis.state.ak.us (Representative\_Richard\_Foster),  
Representative\_Scott\_Ogan@legis.state.ak.us (Representative\_Scott\_Ogan),  
Representative\_Sharon\_Cissna@legis.state.ak.us (Representative\_Sharon\_Cissna),  
Representative\_Vic\_Kohring@legis.state.ak.us (Representative\_Vic\_Kohring)

Dear Senators and Representatives:

It is my understanding that legislation will be introduced next week addressing the issue of background checks for those who work with the youth of our communities. I am writing to request your support for background checks for individuals who work with our children. There have been many instances in past years which give evidence that people who are drawn to work with children are not always drawn by right motives. A background check would possibly be a deterrent to those with wrong intentions, and give parents a bit more peace of mind about who is working with their children. As the saying goes, more is "caught" than "taught" when it comes to children. The benefit of good role models cannot be overstated. Please support legislation that protects the children of our community.

Thank you!

Lael Marlow

Fwd: Background check requirement support]

**Subject:** [Fwd: Background check requirement support]

**Date:** Wed, 21 Feb 2001 15:50:12 -0900

**From:** Representative Lesil McGuire <Representative\_Lesil\_McGuire@legis.state.ak.us>

**Organization:** Alaska State Legislature

**To:** Sue\_Stancliff@legis.state.ak.us

---

**Subject:** Background check requirement support

**Date:** Wed, 21 Feb 2001 12:10:56 EST

**From:** KEAxelson@aol.com

**To:** <Representative\_Fred\_Dyson@legis.state.ak.us>,  
<Representative\_Gail\_Phillips@legis.state.ak.us>, <tundraperson@worldnet.att.net>,  
<Representative\_Andrew\_Halcro@legis.state.ak.us>,  
<Representative\_Lesil\_McGuire@legis.state.ak.us>,  
<Representative\_Lisa\_Murkowski@legis.state.ak.us>,  
<Representative\_Brian\_Porter@legis.state.ak.us>,  
<Representative\_Norman\_Rokeberg@legis.state.ak.us>,  
<Senator\_John\_Cowdery@legis.state.ak.us>, <Senator\_Dave\_Donley@legis.state.ak.us>,  
<Senator\_Johnny\_Ellis@legis.state.ak.us>, <Senator\_Bettye\_Davis@legis.state.ak.us>,  
<Senator\_Rick\_Halford@legis.state.ak.us>, <Senator\_Loren\_Leman@legis.state.ak.us>,  
<Senator\_Drue\_Pearce@legis.state.ak.us>, <Senator\_Randy\_Phillips@legis.state.ak.us>,  
<Senator\_Jerry\_Ward@legis.state.ak.us>,  
<Representative\_Ethan\_Berkowitz@legis.state.ak.us>

**CC:** <KEAxelson@aol.com>

To All Alaska State Legislators,

Background check requirement:

As a parent, a coach, a concerned citizen, a taxpayer, and a voter in every election s

Please work this through to completion in a short time frame. The youth of Alaska need

Keith E. Axelson  
800 Lighthouse Ct.  
Anchorage, Alaska 99515  
907-345-4473

"Representative\_Joe\_Hayes" <Representative\_Joe\_Hayes@legis.state.ak.us>,  
"Representative\_Jeannette\_James" <Representative\_Jeannette\_James@legis.state.ak.us>,  
"Representative\_Reggie\_Joule" <Representative\_Reggie\_Joule@legis.state.ak.us>,  
"Representative\_Mary\_Kapsner" <Representative\_Mary\_Kapsner@legis.state.ak.us>,  
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"Representative\_Peggy\_Wilson" <Representative\_Peggy\_Wilson@legis.state.ak.us>,  
"Representative\_Joe\_Green" <Representative\_Joe\_Green@legis.state.ka.us>,  
"Representative\_Kevin\_Meyer" <Representative\_Kevin\_Meyer@legis.state.ak.us>  
CC: <james.brown@ktuu.com>

Dear Jack,

Thank you so much for all your hard work and dedication in this matter. I along with many other Alaskans greatly appreciate your efforts. I know that this is a subject very close to your heart, and that is what will make all the difference in the world. I only wish there would have been someone like you out there on my side when I was a youngster. As a victim of sexual abuse at the age of 9 while at YMCA summer camp, I know all to well about the scares that stay with us our entire lives. I won't get into the gory details at this time, but if you need me to testify, just let me know. Change will only come about if those who have been hurt are willing to speak out.

Dear Senators and Representatives,

Please help!

You have the power to make the changes necessary!

Why wouldn't you?

It's up to you now, do something!

I'm available any time.

Jay N. Goold  
Anchorage  
907 349-0280 work  
907 345-7202 home

----- Original Message -----

From: "Jack Bowen" <jfb1@alaska.net>  
To: "Representative Fred Dyson" <Representative\_Fred\_Dyson@legis.state.ak.us>; "Representative Gail Phillips" <Representative\_Gail\_Phillips@legis.state.ak.us>; "Russell Watts" <tundraperson@worldnet.att.net>; "Representative Andrew Halcro" <Representative\_Andrew\_Halcro@legis.state.ak.us>; "Representative Lesil McGuire" <Representative\_Lesil\_McGuire@legis.state.ak.us>; "Representative Lisa Murkowski" <Representative\_Lisa\_Murkowski@legis.state.ak.us>; "Representative Brian Porter" <Representative\_Brian\_Porter@legis.state.ak.us>; "Representative Norman Rokeberg" <Representative\_Norman\_Rokeberg@legis.state.ak.us>; "Senator John Cowdery" <Senator\_John\_Cowdery@legis.state.ak.us>; "Senator Dave Donley" <Senator\_Dave\_Donley@legis.state.ak.us>; "Senator Johnny Ellis" <Senator\_Johnny\_Ellis@Legis.state.ak.us>; "Senator Bettye Davis"

"Representative\_Joe\_Hayes" <Representative\_Joe\_Hayes@legis.state.ak.us>,  
"Representative\_Jeannette\_James" <Representative\_Jeannette\_James@legis.state.ak.us>,  
"Representative\_Reggie\_Joule" <Representative\_Reggie\_Joule@legis.state.ak.us>,  
"Representative\_Mary\_Kapsner" <Representative\_Mary\_Kapsner@legis.state.ak.us>,  
"Representative\_Vic\_Kohring" <Representative\_Vic\_Kohring@legis.state.ak.us>,  
"Representative\_Ken\_Lancaster" <Representative\_Ken\_Lancaster@legis.state.ak.us>,  
"Representative\_Scott\_Ogan" <Representative\_Scott\_Ogan@legis.state.ak.us>,  
"Representative\_Jim\_Whitaker" <Representative\_Jim\_Whitake@legis.state.ak.us>,  
"Representative\_Peggy\_Wilson" <Representative\_Peggy\_Wilson@legis.state.ak.us>,  
"Representative\_Joe\_Green" <Representative\_Joe\_Green@legis.state.ka.us>,  
"Representative\_Kevin\_Meyer" <Representative\_Kevin\_Meyer@legis.state.ak.us>  
CC: <james.brown@ktuu.com>

----- Original Message -----  
From: Marcey Lyons <lyons@atuonline.net>  
To: <jfbl@alaska.net>; Representative Fred Dyson  
<Representative\_Fred\_Dyson@legis.state.ak.us>; Representative Gail Phillips  
<Representative\_Gail\_Phillips@legis.state.ak.us>; Russell Watts  
<tundraperson@worldnet.att.net>; Representative Andrew Halcro  
<Representative\_Andrew\_Halcro@legis.state.ak.us>;  
Representative Lesil McGuire  
<Representative\_Lesil\_McGuire@legis.state.ak.us>;  
Representative Lisa Murkowski  
<Representative\_Lisa\_Murkowski@legis.state.ak.us>;  
Representative Brian Porter <Representative\_Brian\_Porter@legis.state.ak.us>;  
Representative Norman Rokeberg  
<Representative\_Norman\_Rokeberg@legis.state.ak.us>; Senator John Cowdery  
<Senator\_John\_Cowdery@legis.state.ak.us>; Senator Dave Donley  
<Senator\_Dave\_Donley@legis.state.ak.us>; Senator Johnny Ellis  
<Senator\_Johnny\_Ellis@legis.state.ak.us>; Senator Bettye Davis  
<Senator\_Bettye\_Davis@legis.state.ak.us>; Senator Rick Halford  
<Senator\_Rick\_Halford@legis.state.ak.us>  
Cc: <james.brown@ktuu.com>  
Sent: Tuesday, February 20, 2001 11:14 AM  
Subject: Re: Background Checks

> This should be a REQUIREMENT!! Please consider enacting this as law.

>

> Thank you,

> Marcey Lyons

> Youth sports coach and parent of 2 minor daughters

> ----- Original Message -----

> From: "Jack Bowen" <jfbl@alaska.net>

> To: "Representative Fred Dyson"

> <Representative\_Fred\_Dyson@legis.state.ak.us>; "Representative Gail

> Phillips" <Representative\_Gail\_Phillips@legis.state.ak.us>; "Russell  
Watts"

> <tundraperson@worldnet.att.net>; "Representative Andrew Halcro"

> <Representative\_Andrew\_Halcro@legis.state.ak.us>;

> "Representative Lesil McGuire"

> <Representative\_Lesil\_McGuire@legis.state.ak.us>;

> "Representative Lisa Murkowski"

> <Representative\_Lisa\_Murkowski@legis.state.ak.us>;

> "Representative Brian Porter"

> <Representative\_Brian\_Porter@legis.state.ak.us>;

> "Representative Norman Rokeberg"

> <Representative\_Norman\_Rokeberg@legis.state.ak.us>; "Senator John Cowdery"

> <Senator\_John\_Cowdery@legis.state.ak.us>; "Senator Dave Donley"

> <Senator\_Dave\_Donley@legis.state.ak.us>; "Senator Johnny Ellis"

[rwd: Background Checks]

PLEASE, if your going to support any bills, support this one.

Thank you,

Tim Twohy

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> >

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>

## ALASKA SENATORS and REPRESENTATIVES

While in the US Post Office I was looking through some papers hanging on the wall. I thought you might like to learn more about what I saw.

### DO YOU KNOW THIS PERSON

WANTED BY THE  
**FBI**

**William Dan Yater**

DOB: 7/20/67	Eyes: Hazel	Height: 6'-4"
Place of Birth: Rochelle, Illinois		Weight: 175

SSN Used: 332-74-0149 Driver's License Used: Illinois # Y360-9246-7206

Occupation: Clerk, Janitor, Factory Worker

Criminal Convictions: Aggravated Sexual Assault

Remarks: Yater has been arrested and convicted of child molestation. Yater portrays himself as a religious person. He may use church activities to gain trust with potential victims' parents. Yater has said he likes boys under 10 because they are easier to scare not to tell.

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Very soon there will be a bill introduced into the Alaska State Legislature to require Background Checks on all people who work or are volunteers for youth groups. This bill, if enacted into law, will help keep predators and child molesters like William Dan Yater from having access to our children.

**Please show your support and vote to enact  
needed legislation to protect our children.**

**The child you protect may be yours.**

Thank you for your time,  
Jack Bowen