

SB

179

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
SENATE DISTRICT F

Senate Bill 179:

"An Act relating to criminal history records and background checks; allowing persons to teach in the public schools for up to five months without a teaching certificate if the person has applied for a certificate and the application has not been acted upon by the Department of Education and Early Development; allowing teacher certification for certain persons based on a criminal history background check without fingerprints; and providing for an effective date."

Sponsor:

Senator Gene Therriault *Gene T.*

Senate Bill 179 is a comprehensive package that accomplishes three important tasks related to performing background checks for licensing, certification and employment. It allows teachers to receive a name based background check in circumstances where their fingerprints are illegible or nonexistent. In addition, it gives the Department of Education the ability to grant a teaching certificate applicant a sixty-day extension on top of the three-month application period if their prints are backlogged and not processed in a timely manner. Finally, SB 179 conforms Alaska Statute to Federal Law, to maintain Alaska's access to federal background checks.

Senate Bill 179 will create an alternative for people who submit two separate sets of fingerprints that the state examiner determines to be illegible due to permanent skin condition. The measure also allows an alternative process if the applicant has a disability that prevents submittal all together. The applicant would then be allowed to have a background check performed based on their name, thus giving parents some assurance that a criminal background check is performed on all teachers relieving teachers who are unable to submit fingerprints from having to resubmit paperwork every three months.

The bill authorizes, but doesn't require, the Department of Education to grant an additional sixty-day extension on teacher applications if fingerprints are not returned within three months if the delay is due to processing rather than the tardiness of the applicant. The reason for this extension is that some teachers have been required to submit additional prints even though their prints were not denied but were still being processed. Some teachers who were not getting fingerprints processed within three months were being put on leave or were forced to be classified as a substitute teacher with lower pay and no benefits.

Finally, SB 179 fills current statutory gaps that the Department of Justice has determined have put the State of Alaska out of compliance with federal law regarding requesting and receiving federal background checks. If this legislation is not enacted, the State of Alaska risks losing its ability to get federal background checks performed after July 30, 2004.

23-LS1942VA
Luckhaupt
4/16/04

HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY
Introduced:
Referred:

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning Senate Bill No. 179, relating to criminal history records,**
3 **background checks, and teacher certification.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
6 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
7 changes to the title of a bill, are suspended in consideration of Senate Bill No. 179, relating to
8 criminal history records, background checks, and teacher certification.

23-LS0938\W
Luckhaupt
4/16/04

HOUSE CS FOR CS FOR SENATE BILL NO. 179()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR THIERRIAULT
REPRESENTATIVE Gatto

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal history records and background checks; allowing teacher
2 certification for certain persons based on a criminal history background check without
3 fingerprints; and providing for an effective date."

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

5 * Section 1. AS 04.11.295(a) is amended to read:

6 (a) An applicant for the issuance or transfer of a license or a conditional
7 contractor's permit under this title shall submit to the board, with the application, the
8 applicant's fingerprints and the fees required by the Department of Public Safety
9 under AS 12.62.160 for criminal justice information and a national criminal history
10 record check. The board may require an applicant for renewal of a license or a
11 conditional contractor's permit under this title to submit fingerprints and pay fees as
12 required by this subsection. The board shall submit the fingerprints to the Department
13 of Public Safety to obtain a report of criminal justice information under AS 12.62 and
14 a national criminal history record check under AS 12.62.400. The Department of

1 Public Safety may submit the fingerprints to the Federal Bureau of Investigation for a
2 national criminal history record check. The board shall use the information obtained
3 under this section in its determination of an applicant's qualification for issuance,
4 transfer, or renewal of a license or a conditional contractor's permit.

5 * Sec. 2. AS 04.11.295(b)(1) is amended to read:

6 (1) "applicant" means all individuals whose names and addresses are
7 required to be provided with an application for a new license or permit under
8 AS 04.11.260;

9 * Sec. 3. AS 08.08.137 is amended to read:

10 Sec. 08.08.137. Fingerprints. The Board of Governors shall require an
11 applicant for admission to be fingerprinted and provide the fees required by the
12 Department of Public Safety under AS 12.62.160 for criminal justice information
13 and a national criminal history record check. The fingerprints and fees shall be
14 forwarded to the Department of Public Safety to obtain a report of criminal
15 justice information under AS 12.62 and a national criminal history record check
16 under AS 12.62.400 [USED TO DETERMINE WHETHER THE APPLICANT HAS
17 A RECORD OF CRIMINAL CONVICTIONS IN THIS STATE OR ANOTHER
18 JURISDICTION]. The Board of Governors may use the information obtained from
19 the fingerprinting only in its official determination of the character and fitness of the
20 applicant for admission to the Alaska Bar Association.

21 * Sec. 4. AS 08.24.120 is amended to read:

22 Sec. 08.24.120. Application for operator's license. (a) An application for
23 an operator's license shall be made on forms furnished by the department and must
24 contain the information required in AS 08.24.110 and the following:

25 (1) a complete set of fingerprints and the fees required by the
26 Department of Public Safety under AS 12.62.160 for criminal justice information
27 and a national criminal history record check;

28 (2) a 2" x 3" photograph showing a front view of head and shoulders;

29 (3) if it is an original application, the application fee;

30 (4) the biennial license fee.

31 (b) The department may make a complete investigation of applicants,

1 including inquiry of police agencies as to the applicant's record of arrest or conviction
2 of crime. The department shall submit the fingerprints and fees received under
3 (a)(1) of this section to the Department of Public Safety for a report of criminal
4 justice information under AS 12.62 and a national criminal history record check
5 under AS 12.62.400.

6 * Sec. 5. AS 08.68.100(a) is amended by adding a new paragraph to read:

7 (10) require applicants under this chapter to submit fingerprints and the
8 fees required by the Department of Public Safety under AS 12.62.160 for criminal
9 justice information and a national criminal history record check; the department shall
10 submit the fingerprints and fees to the Department of Public Safety for a report of
11 criminal justice information under AS 12.62 and a national criminal history record
12 check under AS 12.62.400.

13 * Sec. 6. AS 12.62.160 is amended by adding a new subsection to read:

14 (e) When an interested person requests information under (b)(9) of this
15 section, the department may also obtain a national criminal history record check under
16 AS 12.62.400 if the person submits the fingerprints and fees required for that check
17 under (d) of this section.

18 * Sec. 7. AS 12.62 is amended by adding a new section to read:

19 **Article 1A. National Criminal History Record Check.**

20 **Sec. 12.62.400. National criminal history record checks for employment,**
21 **licensing, and other noncriminal justice purposes.** To obtain a national criminal
22 history record check for determining a person's qualifications for a license, permit,
23 registration, employment, or position, a person shall submit the person's fingerprints to
24 the department with the fee established by AS 12.62.160. The department may submit
25 the fingerprints to the Federal Bureau of Investigation to obtain a national criminal
26 history record check of the person for the purpose of evaluating a person's
27 qualifications for

28 (1) a license or conditional contractor's permit to manufacture, sell,
29 offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage
30 under AS 04.11;

31 (2) admission to the Alaska Bar Association under AS 08.08;

- 1 (3) licensure as a collection agency operator under AS 08.24;
- 2 (4) licensure to practice nursing or certification as a nurse aide under
- 3 AS 08.68;
- 4 (5) a position involving supervisory or disciplinary power over a minor
- 5 or dependent adult for which criminal justice information may be released under
- 6 AS 12.62.160(b)(9);
- 7 (6) a teacher certificate under AS 14.20;
- 8 (7) licensure as a security guard under AS 18.65.400 - 18.65.490;
- 9 (8) a concealed handgun permit under AS 18.65.700 - 18.65.790;
- 10 (9) licensure as an insurance producer, managing general agent,
- 11 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
- 12 broker, or independent adjuster under AS 21.27;
- 13 (10) serving and executing process issued by a court by a person
- 14 designated under AS 22.20.130;
- 15 (11) a school bus driver license under AS 28.15.046;
- 16 (12) licensure as an operator or an instructor for a commercial driver
- 17 training school under AS 28.17;
- 18 (13) registration as a broker-dealer, agent, investment adviser
- 19 representative, or state investment adviser under AS 45.55.030 - 45.55.060;

20 * Sec. 8. AS 14.20.020(c) is amended to read:

21 (c) The board may establish by regulation additional requirements for the

22 issuance of certificates. The board shall require teachers to submit fingerprints

23 and the fees required by the Department of Public Safety under AS 12.62.160 for

24 criminal justice information and a national criminal history record check. The

25 board shall submit the fingerprints and fees to the Department of Public Safety

26 for a report of criminal justice information under AS 12.62 and a national

27 criminal history record check under AS 12.62.400. The department shall establish

28 by regulation the fees to be charged for each certificate [, INCLUDING FEES FOR

29 CRIMINAL HISTORY BACKGROUND CHECKS] and for other charges assessed

30 against teachers as part of certification. In establishing the fees to be charged, the

31 department shall establish the fee levels so that the total amount of the fees collected

1 relating to the certification of teachers approximately equals, when added to the other
2 fees collected from teachers, the actual regulatory costs for certifying and disciplining
3 teachers in the state. The department shall annually review each fee level to determine
4 whether the regulatory costs are approximately equal to fee collections. If the review
5 indicates that fee collections and regulatory costs are not approximately equal, the
6 department shall calculate fee adjustments to the fees for certification of teachers and
7 adopt regulations under this subsection to implement the adjustments. In January of
8 each year, the department shall report on all fee levels and revisions for the previous
9 year under this subsection to the office of management and budget. The department
10 shall consider the board's recommendations concerning the fee levels and regulatory
11 costs before revising fee schedules to comply with this subsection. In this subsection,
12 "regulatory costs" means costs of the department that are attributable to regulation of
13 the teaching profession, including the portion of the expenses of the board that are
14 attributable to the regulation of the teaching profession and the expenses of the
15 Professional Teaching Practices Commission.

16 * **Sec. 9.** AS 14.20.020 is amended by adding a new subsection to read:

17 (j) Whenever required by a provision of this chapter to submit fingerprints to
18 use for a criminal background check for the purpose of determining a person's
19 suitability for employment as a teacher, the department shall accept a name-based
20 criminal history background check on a person from the agency performing the
21 background check if the

22 (1) person cannot submit legible fingerprint cards due to a permanent
23 disability that precludes the person's ability to submit fingerprints; or

24 (2) agency informs the department that its examination of at least two
25 separate sets of fingerprint cards shows that the person's fingerprints are illegible due
26 to a permanent skin condition.

27 * **Sec. 10.** AS 14.20.022(b) is amended to read:

28 (b) To be eligible for a subject-matter expert limited teacher certificate, a
29 person shall

30 (1) hold at least a baccalaureate degree from an institution of higher
31 education accredited by a recognized regional or national accrediting association or

1 approved by the commissioner and

2 (A) have majored or minored in the subject that the person will
3 be teaching; or

4 (B) have at least five years experience in the subject matter that
5 the person will be teaching;

6 (2) have submitted fingerprints and the fees required by the
7 Department of Public Safety under AS 12.62.160 for criminal justice information
8 and a national criminal history record check to the department; the department
9 must have submitted the fingerprints and fees to the Department of Public Safety
10 for a report of criminal justice information under AS 12.62 and a national
11 criminal history record check under AS 12.62.400 and the person must [TO BE
12 USED FOR A CRIMINAL HISTORY BACKGROUND CHECK AND] have been
13 found by the department to be suitable for employment as a teacher under
14 AS 14.20.020(f); and

15 (3) be currently enrolled in an approved post-baccalaureate teacher
16 education program at a regionally accredited institution meeting the requirements of
17 AS 14.20.020(b) that provides for completion of the regular teacher certificate
18 education requirements within two years after receipt of a subject-matter expert
19 limited teacher certificate under this section [; AND

20 (4) PAY THE FEE REQUIRED BY THE DEPARTMENT UNDER
21 AS 14.20.020(c) TO DEFRAY THE COST OF THE CRIMINAL HISTORY
22 BACKGROUND CHECK; THE AMOUNT MAY NOT EXCEED THE FEE
23 REQUIRED FOR APPLICATION FOR AN INITIAL REGULAR TEACHER
24 CERTIFICATE].

25 * Sec. 11. AS 18.20.302(b) is amended to read:

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

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

1 and

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

4 * Sec. 12. AS 18.65.410(a) is amended to read:

5 (a) Application for a license as a security guard must be made on forms
6 provided by the commissioner. The application must require the furnishing of
7 information reasonably required by the commissioner to carry out the provisions of
8 AS 18.65.400 - 18.65.490, including classifiable fingerprints and the fees required
9 under AS 12.62.160 for criminal justice information under AS 12.62 and a
10 national criminal history record check under AS 12.62.400 to determine if the
11 applicant has a [TO ENABLE THE SEARCH OF CRIMINAL INDICES FOR
12 EVIDENCE OF A PRIOR] criminal record. The application must be accompanied by
13 a nonrefundable application fee of \$50 for a security guard and \$200 for a security
14 guard agency.

15 * Sec. 13. AS 18.65.700(a) is amended to read:

16 (a) The department shall issue a permit to carry a concealed handgun to a
17 person who

18 (1) applies in person at an office of the Alaska State Troopers;

19 (2) qualifies under AS 18.65.705;

20 (3) submits a completed application on a form provided by the
21 department, that provides the information required under AS 18.65.705 and 18.65.710:
22 with each application form provided by the department, the department shall provide a
23 copy of the state laws and regulations relating to concealed handguns, which must
24 include a concise summary of where, when, and by whom a handgun can be carried
25 under state and federal law;

26 (4) submits two complete sets of fingerprints on Federal Bureau of
27 Investigation approved fingerprint cards that are of sufficient quality so that the
28 fingerprints may be processed; the fingerprints must be taken by a person, group, or
29 agency approved by the department; the department shall maintain a list of persons,
30 groups, or agencies approved to take fingerprints and shall provide the list to the
31 public upon request; the fingerprints shall be used to obtain a report of criminal

1 justice information under AS 12.62 and a national criminal history record check
2 under AS 12.62.400;

3 (5) submits evidence of successful completion of a handgun course as
4 provided in AS 18.65.715;

5 (6) provides one frontal view color photograph of the person taken
6 within the preceding 30 days that includes the head and shoulders of the person and is
7 of a size specified by the department;

8 (7) shows a valid Alaska driver's license or identification card at the
9 time of application;

10 (8) does not suffer a physical infirmity that prevents the safe handling
11 of a handgun; and

12 (9) pays the application fee required by AS 18.65.720.

13 * Sec. 14. AS 21.27.040(e) is amended to read:

14 (e) As part of the application required by (a) of this section, an applicant shall
15 furnish to the director a full set of fingerprints and the fees required by the
16 Department of Public Safety under AS 12.62.160 for criminal justice information
17 and a national criminal history record check so that the director may obtain
18 criminal justice information as provided under AS 12.62 about the applicant. The
19 director shall submit the completed fingerprint card and fees to the Department of
20 Public Safety for a report of criminal justice information under AS 12.62 and a
21 national criminal history record check under AS 12.62.400 [. THE
22 DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO SUBMIT THE
23 FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR A
24 NATIONAL CRIMINAL HISTORY RECORD CHECK].

25 * Sec. 15. AS 22.20.130(a) is amended to read:

26 (a) The commissioner shall be assisted in the execution of the authority and
27 duty vested by AS 22.20.100 - 22.20.140 by members of the division of state troopers
28 or Alaska state constabulary who the commissioner designates. The commissioner is
29 responsible on official bond for the acts of all persons designated under this
30 subsection. The persons designated under this subsection have the same authority and
31 duty granted to the commissioner and are subject to orders of the courts of the state in

1 the same manner as the commissioner. They are responsible to the commissioner and
2 to the courts, and shall be executive officers of the courts. In order to be designated
3 under this section, the commissioner may require the person to submit the
4 person's fingerprints and the fees required under AS 12.62.160 for criminal
5 justice information and a national criminal history record check. The
6 commissioner may obtain a report of criminal justice information under
7 AS 12.62 and a national criminal history record check under AS 12.62.400.

8 * Sec. 16. AS 28.15.046(b) is amended to read:

9 (b) The department may not issue a license under this section unless the
10 applicant

11 (1) is at least 21 years of age;

12 (2) has had a license to operate a motor vehicle at least three years
13 before the date of application;

14 (3) has successfully completed all required driving, written, and
15 physical examinations;

16 (4) has submitted the applicant's fingerprints, the fees required by
17 the Department of Public Safety under AS 12.62.160 for criminal justice
18 information and a national criminal history record check, and other information
19 sufficient to complete a background check consisting of a fingerprint check of national
20 criminal records and state criminal records of the state or states in which the applicant
21 has resided for the past two years; the department shall submit the fingerprints and
22 fees to the Department of Public Safety for a report of criminal justice
23 information under AS 12.62 and a national criminal history record check under
24 AS 12.62.400;

25 (5) has completed a state approved school bus driver training course
26 established under AS 14.07.020(a)(14) or has for the previous two years been licensed
27 by the state to operate a school bus.

28 * Sec. 17. AS 28.17.031 is amended by adding a new subsection to read:

29 (c) The department shall require an applicant for a license under this chapter
30 to submit the applicant's fingerprints and the fees required by the Department of
31 Public Safety under AS 12.62.160 for criminal justice information and a national

1 criminal history record check. The department shall submit the fingerprints and fees
2 to the Department of Public Safety for a report of criminal justice information under
3 AS 12.62 and a national criminal history record check under AS 12.62.400.

4 * Sec. 18. AS 45.55.040 is amended by adding a new section to read:

5 (k) The administrator shall require an applicant for registration under
6 AS 45.55.030 - 45.55.060 to submit the applicant's fingerprints and the fees required
7 by the Department of Public Safety under AS 12.62.160 for criminal justice
8 information and a national criminal history record check. The administrator shall
9 submit the fingerprints and fees to the Department of Public Safety for a report of
10 criminal justice information under AS 12.62 and a national criminal history record
11 check under AS 12.62.400.

12 * Sec. 19. This Act takes effect immediately under AS 01.10.070(c).