

HB

276

Session:
State Capitol, Room 13
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Alaska State Legislature
Representative David Guttenberg

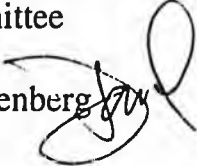


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MEMORANDUM

TO: Representative Bruce Weyhrauch, Chairman
House State Affairs Committee

FROM: Representative David Guttenberg 

DATE: April 17, 2003

RE: **HB 276 Firefighter Background Checks**

Dear Representative Weyhrauch 

I am writing to officially request that you schedule HB 276 for hearing before your committee at your earliest convenience.

Enclosed are:

- 1) HB 276
- 2) Sponsor Statement
- 3) Resolution passed by the Alaska Fire Chiefs Association
- 4) Resolution passed by the Interior Fire Chiefs Association
- 5) Background letter from Eric Mohrmann, Chief of Chena-Goldstream Fire & Rescue
- 6) Excerpt from "Firefighter Arson" a special report by FEMA and the U.S. Fire Administration, Jan. 2003

We will provide additional information as it arrives or upon request.

Thank you for your consideration.

Cc: Members of the House State Affairs Committee

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University Campus • University Hills • University West
<Representative_David_Guttenberg@legis.state.ak.us>

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Sponsor Statement for HB 276

Background Checks on Fire/EMS Volunteers

An Act authorizing fire departments and emergency medical services to obtain criminal justice information and motor vehicle records to screen volunteer applicants

Volunteer firefighters and Emergency Medical Service personnel embody the best elements of our communities, giving generously of their time and energy in public service to save lives and protect property. Unfortunately, problems occasionally exist within the ranks of these community heroes.

Some firefighters actually start the fires they are called to extinguish, hoping to play the role the "hero" who is first on the scene. Others given the responsibility of driving fire engines or ambulances under emergency situations may have questionable driving records. Others may have criminal records that suggest they not be trusted with emergency entry into private homes or educational programs in the schools

The actions of a few within a volunteer fire or ambulance service can disgrace the whole department, diminish the public trust, and expose the service to potential litigation. For this reason, background checks of job applicants are routinely performed by paid departments but volunteer services often find the cost, about \$25 per individual, to be prohibitively expensive.

HB 276 allows volunteer departments to address these risk management issues by amending AS 18.70.025 to give state registered Fire Departments and certified Emergency Medical Services the authority to obtain, at no cost, criminal justice information under AS 12.62.160 (b) (6) and drivers license and driving records under AS 28.15.151 for the purpose of screening volunteers seeking to join the service.

The need for such legislation is expressed in resolutions passed by the Alaska Fire Chiefs Association and the Interior Fire Chiefs Association.

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RESOLUTION 2003-04

A Resolution of the Alaska Fire Chiefs Association in support of a program conducting background checks for volunteer firefighters and Emergency Medical Technicians.

WHEREAS, in the interests of protecting the public's trust and maintaining the high standards required of volunteer firefighters and emergency medical technicians, volunteer fire and EMS departments should require background checks for all new volunteers at the time of application, as well as on existing volunteers on a semi-annual basis, and

WHEREAS, obtaining and paying for background checks for the large majority of volunteers that have no criminal history or driving infractions constitutes an unnecessary burden on the volunteer, and a financial burden on small volunteer fire and EMS departments, and

WHEREAS, the privacy of the individual and the needs of the community may be met by a simple process, now

THEREFORE BE IT RESOLVED, that the Alaska Fire Chiefs Association encourages the Legislature and Governor's Office to authorize a program whereby an approved form, with the volunteers signature providing authorization, would be transmitted to the Alaska State Police, the Department of Motor Vehicles, or other local law enforcement organization having access to such information. The agency(s) would, at no cost, conduct a background search of Alaska criminal history records and driving records. If no history of criminal or driving history were found, the agency(s) would forward the results to the requesting fire or EMS department. If a criminal history or driving history is found, the agency(s) will forward the form, with a notation that an official records check was needed, to the fire or EMS department.

Ratified by a vote of the membership of the Alaska Fire Chiefs Association at their regularly scheduled meeting on March 6, 2003.

President, Alaska Fire Chiefs Association

Secretary, Alaska Fire Chiefs Assoc.

INTERIOR FIRE CHIEFS ASSOCIATION**RESOLUTION NO. 02-003****A RESOLUTION BY THE INTERIOR CHIEFS ASSOCIATION IN SUPPORT OF A PROGRAM OF BACKGROUND CHECKS FOR VOLUNTEER FIREFIGHTERS AND EMTS.**

WHERE AS, In the interests of protecting the public's trust and maintaining the high standards required of volunteer firefighters & EMTs, volunteer fire and EMS departments should require background checks for all new volunteers at the time of application as well as on existing volunteers on a regular bases (ie: every two years, and

WHERE AS, Obtaining and paying for background checks for the large majority of volunteers that have no criminal history or driving infractions constitutes a unnecessary burden on the volunteer and a financial burden on small volunteer fire and EMS departments; and

WHERE AS, The privacy of the individual and the needs of the community may met by a simple process; now

BE IT RESOLVED, that the Interior Fire Chiefs Association encourages the Legislature and Governor's office to authorize a program whereby an approved form with the volunteer's signature providing authorization would be transmitted to the Alaska State Troopers, the Department of Motor Vehicles, or other local law enforcement organization having access to such information, who would at no cost, conduct a background search of Alaska criminal history records and driving records and would, if no record of conviction or violation was found for this volunteer; advise the fire and/or EMS department that no record was found; and would also if a record of criminal conviction or driving violation was found, advise the department that an official records check was needed.

RATIFIED BY THE VOTE OF THE INTERIOR CHIEFS ASSOCIATION ON December 11, 2002:

Attested to by:

Tom Kurth, President

Ernie Misewicz, Secretary

The headlines read, "EMS Worker Facing Sex Charges"(1); "Former firefighter charged with three counts of arson"(2); "Accused [Contract] Firefighter Claims [Mental] Incompetence in Phoenix [in setting of one of two wildfires that merged into a 469,000 acre blaze]"(3). These and many more incidents raise the concern of who is volunteering for our emergency services departments.

Emergency service workers, paid or volunteer, are entrusted by the public with their homes, possessions and persons. Every department knows that this public trust must be held inviolate and frequently background checks and driving histories are required by local departments before a person can be employed or can volunteer for a department.

For fully paid employees, the employer usually pays for the records check and conducts the background check of the applicant. This person most probably will be a part of the department for a number of years and this background check is cost effective, but what about a volunteer department? Many departments, including my own, have a policy requiring a background check and driving history check for new volunteers. This used to be accomplished by contacting the local law enforcement agency and making a request for information. Now however, due to privacy requirements and new policies, this information is restricted to a much greater extent.

A person who wishes to volunteer, now must leave work (and only on certain days and times) come in person to AST and DMV, wait in line in two locations and pay \$35.00 to obtain a copy of their criminal history and driving record, which they then take to their department. Depending upon the department's policy and funding, they might get reimbursed. I feel that this is a lot to ask of a person who wants to volunteer their time and talents, especially as an introduction to the department!

The Interior Fire Chiefs Association has passed a resolution and is seeking support of the Alaska Fire Chiefs Association and the legislation for a program that will provide a simplified method of obtaining a background check for prospective volunteers and still protect their privacy. The prospective volunteer(s) would complete and sign a form releasing information to the department. The department would provide these forms to AST and DMV who would conduct a records search. If, as certainly would be found in 99% of the cases, there were no infractions or convictions, a report of "No record" would be transmitted back to the department. Should a record be found, the department would only be notified that "A record check is recommended" or similar wording. The prospective volunteer would then be notified by the department and could provide the record if he/she so desired.

Have you had persons with bad driving records or violent felony records apply to your department? Are you sure? Please contact your legislators and support this plan.

Eric Mohrmann
Fire Chief
Chena-Goldstream Fire & Rescue

479-5672

- (1) Mandy Gaither, Live News 5, talkback@wcsc.com, 12/13/02
- (2) WMTW.com home page, Dec. 6, 2002
- (3) Associated Press 12/13/2002

TECHNICAL REPORT SERIES

**Firefighter
Arson**

SPECIAL REPORT



FEMA

U.S. Fire Administration

INTRODUCTION

Everyone in the fire service must be, and should be, prepared to admit that there is a [firefighter arson] problem and that precise, firm methods are needed to combat this situation. To ignore the problem or suggest that it does not exist will only increase the damage caused by the arson firefighters involved, as well as destroy the morale of the other firefighters in their departments. We must talk to our members about firefighter arson. We must investigate, charge, and convict those that are committing this crime.¹

Slowly, the fire service is shedding light on a situation that occurs rarely but which is nevertheless serious: some firefighters intentionally start fires. A very small percentage of otherwise trustworthy firefighters cause the very flames they are dispatched to put out. The incidence of illegal firesetting among the nation's fire and rescue personnel is not known precisely. Fire incident data does not generate many details about incendiary fires, and a suspect's occupation is rarely, if ever, included in the database. Overall, relatively little research has been conducted on arson compared to other types of crimes. Even less information data is available about arsonists who are also public safety personnel.

Most fire departments will never experience having a member indicted for arson. But for those that do, the impact is almost always significant. This report delves into the problem of firefighter arson and explains what some communities and states are doing to prevent it. These jurisdictions have taken bold steps by publicly stating that the problem exists, and they have acted to solve it. Given the far-reaching effects that criminal firesetting by a firefighter can cause, awareness and action are clearly necessary.

The impact of firefighter arson can be severe. People die or are seriously injured, including fellow firefighters who respond to the call. Homes are destroyed. An arsonist from within the fire department can disgrace the whole department, and his actions diminish public trust. Several states that have experienced the crime of firefighter arson have developed new legislation that directly impacts the prosecution of firefighters accused of arson. Firefighter arson task forces have been organized to prevent the crime. Education, training, and appropriate criminal background and reference checks are key components of the programs. Some of these proactive efforts are highlighted in this report to give fire service leaders ideas for their own departments.

¹ "NVFC Study: Fire-setting Firefighters—the Arsonist in the Fire Department," originally published in the Illinois Gong, appeared in Minnesota Fire Chief, March/April 1995 issue.

Criminal Background Checks

Over a decade ago, the FBI began creating an arson profile. It was about this time that several fire departments began doing criminal background checks and psychological testing on firefighter applicants. The problems associated with a firefighter arsonist can be reduced with applicant screening and background examinations. While screening cannot be 100 percent effective for a fire department any more than for a police department, when combined with a background check the possibility of hiring a potential arsonist, or current one, is generally thought to be reduced. The percentage of reduction, however, is speculative and data is not currently available to verify the impact. Measures such as these are preventative, but can be expensive.

Combining screening and background checks for an applicant may alert a fire leader that a prospective member has a criminal history. In the little research that has been conducted on firefighter arson, there was evidence that some of the individuals were convicted of arson in one state, and then moved to another state only to set more fires.

In conjunction with the Suffolk County Arson Task Force, the Suffolk County Police Arson Squad provides applicant screening. Suffolk County asks applicants to sign a waiver that would allow the County to inspect the applicant's criminal history as part of the department's application process. Failure to sign the waiver precludes the applicant from further consideration. The waiver for criminal history checks as a pre-employment requirement can be a simple and effective screening measure.

In the State of New York in February of 1999, Chapter 423, *The Executive Law* was amended to add a new section 837-o, which requires fire chiefs to obtain an arson history background check of any applicant for membership in a volunteer fire company. The law became effective on April 1, 2000. The check is to be conducted by the Division of Criminal Justice Services at no cost to the applicant or the fire company. If history of an arson conviction is found, the applicant is barred from membership. The Town Law, Village Law, and Not-for-profit Corporation Law were also amended to require the arson history checks.

The amendment in New York State's law came after years of fire officials lobbying to make a conviction of arson in any degree an absolute bar to membership in a fire company. Chapter 423's intent is to strengthen the ability of fire companies to police their own ranks by enabling fire chiefs to require new volunteer firefighter applicants, including those who transfer between fire companies, to undergo an arson conviction record check prior to acceptance as members.