

SB

55



SENATOR FRED DYSON

MEMORANDUM

March 25, 2003

To: Senator Ralph Seekins, Chair
Senate Judiciary Committee

From: Senator Fred Dyson *FJD*

RE: Request for Hearing SB 55

I respectfully request a hearing in the Senate Judiciary Committee for SB 55 (Tampering with Public Records). In addition to the attached materials, I would be glad to answer any questions that may arise, as would my staff, Jason Hooley (ext. 3762). Thank you for your consideration.

SB 55

Sponsor Statement

"An Act relating to tampering with public records"

Public records must not be altered to cover up mistakes, incompetence, dereliction of duty, or crimes. SB 55 is intended to raise awareness and penalties related to deliberate alteration of records of vulnerable persons. Accurate and complete records are essential to making critical decisions that can have profound and lasting effect on person's lives and the lives of their families when they cannot make those decisions for themselves.

Senate Bill 55 elevates this crime of tampering with public records to a class C felony. This means that if a person is convicted under this law he or she could be given up to a \$50,000 fine and 5 years in prison.

Existing law provides this penalty when the tampering is done with the intent to obtain a benefit or to injure or deprive a person of benefits; SB 55 specifically broadens existing law to include tampering committed knowingly with the intent to conceal facts that are material to the provision of services or to an investigation. This bill includes the following records: children in need of aid, juvenile delinquency, child abuse, and vulnerable adults. This significant disincentive to tamper with records emphasizes our responsibility as custodians and guardians.

SB 55 is not targeted at any specific state agency or persons, it is meant to act as a deterrent to potentially prevent tragedy. It was discovered in Florida last year that a child welfare caseworker had been falsely claiming to be maintaining contact with Rilya Wilson, age 5, for over a year, when in reality, Rilya had disappeared. In that case the social worker, possibly overworked, chose to submit records that indicated all was well, rather than admit that he or she had no idea about the child's welfare. Rilya is still missing. While there is no guarantee that stiffer penalties for falsifying records would have prevented this tragedy, it is true that Florida quickly passed a bill similar to SB 55. After the fact and too late to help Rilya...

SB 55 changes (underlined) in context of existing law:

AS 11.56.815. Tampering with public records in the first degree.

- (a) A person commits the crime of tampering with public records in the first degree if the person violates
- (1) AS 11.56.820 (a)(3) with intent to obtain a benefit for that person or any person or to injure or deprive another person of a benefit; or
 - (2) AS 11.56.820(a)(1) or (2) with the intent to conceal a fact material to an investigation or the provision of services under AS 47.10, 47.12, 47.17, or 47.24.
- (b) Tampering with public records in the first degree is a class C felony.

Sec. 11.56.820. Tampering with public records in the second degree.

- (a) A person commits the crime of tampering with public records in the second degree if the person
- (1) knowingly makes a false entry in or falsely alters a public record;
 - (2) knowingly destroys, mutilates, suppresses, conceals, removes, or otherwise impairs the verity, legibility, or availability of a public record, knowing that the person lacks the authority to do so; or
 - (3) certifies a public record setting out a claim against a government agency, or the property of a government agency, with reckless disregard of whether the claim is lawful, or that payment of the claim is not authorized in the budget of the government agency.
- (b) In this section
- (1) "certifies" means attesting to the existence, truth, or accuracy of facts, or that one holds an opinion, stated in a public record; the term includes the responsibilities for state officials set out in AS 37.10.030;
 - (2) "falsely alters" has the meaning ascribed to it in AS 11.46.580 ; and
 - (3) "makes a false entry" means to change or create a public record, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or by any other means, so that the record so changed or created states or implies a fact that the maker knows is not true, or states or implies an opinion that the maker does not hold.
- (c) Tampering with public records in the second degree is a class A misdemeanor.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB 55 (HES)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to tampering with public BRU Criminal Division
records." _____ Component All
Sponsor Senator Dyson
Requester Senate Judiciary Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill increases the penalty to a C felony tampering with a public record (currently, in most cases, a class A misdemeanor) if the records deal with a child under state custody or protection or a vulnerable adult.

Anytime a misdemeanor crime is changed to a felony, the costs of prosecution increase. However, the Department of Law does not expect many of these new felony prosecutions to arise, and does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson
Division: Attorney General's Office
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General
Agency: Department of Law

Phone (907) 465-5370
Date/Time 4/21/03 4:17 PM
Date 4/21/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 55
 (S) Publish Date: 3/26/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to tampering with public records." BRU Criminal Division
 Component All
 Sponsor Senator Dyson
 Requester Senate HESS Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
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Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill increases the penalty to a C felony for knowingly making a false entry in or falsely altering a public record; or knowingly destroying, mutilating, suppressing, concealing, removing, or otherwise impairing the verity, legibility, or availability of a public record, knowing that the person lacks the authority to do so, if the public record relates to a person in the care or custody of the state. This crime of tampering with public records is currently a class A misdemeanor.

Anytime a misdemeanor crime is changed to a felony, the costs of prosecution increase. However, the Department of Law does not expect many of these new felony prosecutions to arise, and does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division: Attorney General's Office Date/Time 3/4/03 2:33 PM
 Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General Date 3/4/2003
 Agency: Department of Law

Sent: Saturday, August 10, 2002 2:24 PM
Subject: CPS = the *New Age Mob*

NATIONAL ADVISORY ON ORGANIZED CRIME OPERATING IN THE CHILD PROTECTION SYSTEM

The recent horror story of a fifteen-month delay in Florida officials discovering that foster child Rilya Wilson had apparently been kidnapped by persons knowledgeable of the inner workings of the child protection system was due to the systematic falsification of child protection system records. This falsification of child protection system records is part of a national pattern of organized crime. It is not an isolated incident.

The Rilya Wilson case is the tip of a criminal iceberg. Beginning about 1973, criminal elements in the mental health and social work professions began cooperating to construct an organized criminal enterprise that exploits children behind the legislated secrecy of the child protection, juvenile justice, and mental health systems. The contemporary end result is a nationwide organized criminal operation that uses everything from sophisticated science-fraud-based "evaluation" instruments structured to produce false positives to third party state service contracts written to sustain a system of structural corruption in which state employees and contract service providers must falsify records and testimony or they will not continue to be employed or paid.

To maintain their existence, organized criminal operations must construct management bureaucracies with policies and procedures necessary to sustain daily operations, just like any other bureaucracy. The only adaptation required to run criminal operations in the government and quasi-government agencies which constitute the child protection system is that they must be integrated into the policies and procedures of the umbrella agency and not be detected as components of a criminal bureaucracy.

The existence of organized crime in the child protection system of any given state is not that difficult to detect. Prominent among the indicators are: (1) the annual number of founded child abuse allegations can be predicted from the number of conditional federal grant and reimbursement salary fund dollars needed to balance the state child protection agency payroll (the number of children taken into state custody each year will be the number sufficient to generate the federal fund claims necessary to balance the agency payroll); and (2) third party contracts to file state child protection agency federal fund claims will contain provisions that only compensate the contractor for increases in federal funds paid to the state over and above the amount paid in the previous contract for such claim filing services. The latter creates a system that will only result in compensation to the contractor if the number of children taken into state custody constantly increases and/or the total claims generated from each child in state custody increases each contract cycle. The net result is a system in which everyone stays employed only if the number of founded child abuse cases and children taken into state custody always increases and never decreases. An important byproduct of this criminal process of exploiting children independent of the true child abuse rate is the blind political support for the criminal operations generated by the constant flow of conditional federal funds into the respective State's economy. In the Rilya Wilson case, even the Foster Mother continued to receive and accept payments for the care of Rilya over a year after the child disappeared. Caseworkers reportedly told her to take the money.

There are similar lessons to be drawn from the embarrassment of the Bush Administration over numerous ignored warnings that Osama bin Laden planned to hijack planes and fly them into buildings and the embarrassment of Florida Officials having to explain fifteen months of falsified child protection records, sworn court testimony that Rilya Wilson was in Florida State custody and doing fine, and falsified federal fund claims for services delivered to a child that may have been dead the entire time. After the collapse of the World Trade Center, both the American Public and terrorists worldwide now

know the United States is vulnerable to attack, due in large part to corruption, incompetence and mismanagement in intelligence and law enforcement agencies. After the Rilya Wilson case in Florida, the Public and every child molester, pornographer and other criminal who need children for their misdeeds know that the corruption, incompetence and mismanagement in the child protection system can be exploited as cover to acquire children for their own illicit purposes. What happened to Rilya Wilson in Florida can happen in any state where the current organized criminal exploitation of children is allowed to continue. Sooner or later other criminals, including child molesters and child pornographers, are going to become sufficiently aware of the mechanisms the current organized criminals are using to manage their criminal bureaucracy that they will also be able to exploit the system, as were the people who reportedly kidnaped Rilya Wilson and returned a week later to collect her clothes. Among the obvious possibilities is obtaining information about the criminal activity (falsifying federal claims, official reports, insurance claims, etc.) of individual state employees or licensed professionals, like psychiatrists and psychologist, and blackmailing them to allow access to children for criminal exploitation or perversion.

Of major importance to prosecutors is that the systematic falsification of records by child protection system crime participants in psychiatry, psychology, social work and child abuse investigation units results in the systematic falsification of evidence used in child related criminal and civil judicial proceedings. While it may be tempting not to look to closely at experts and evidence which make convictions easier, relying on criminals who help conceal their nefarious enterprises by providing convenient services to the people who should be prosecuting them is a house of cards that will collapse locally or nationally at some point. We have the contemporary examples of the falsification of evidence in the Los Angeles Police Department and the newly documented error rate in death row convictions.

Unless something is done to shut down the organized criminal activity in every state in which it exists, Rilya Wilson is not going to be the last horror story to capture national attention. Careers will be ruined, as they have been in Florida, and people will end up going to prison for crimes far beyond what they thought they were getting themselves into by falsifying a few reports to get federal funds into the state or for insurance claims. Prosecutors, Legislators, and other state officials who thought they were benefitting their state by looking the other way because federal funds were coming into the state's economy, may end up having to face situations far uglier than they ever thought. Former Arkansas State Senator Nick Wilson is now in federal prison for his sponsorship and participation in one such legislated criminal enterprise to exploit children. Other Arkansas attorneys involved lost their licenses to practice law. An Austin, Texas DHS Supervisor committed suicide after allegedly being caught running a foster child prostitution ring from his office computer. In a recent Arkansas Legislative Session, a bill drafted by Arkansas Department of Human Services employees was discovered to contain provisions that would have required employees to lie about records and facts, even if subpoenaed. The bill was withdrawn once the Legislator duped into being the primary sponsor was made aware of its contents. In a June 6, 2002 opinion, the Arkansas Supreme Court ruled that an infant Arkansas citizen had been illegally transferred to Florida State custody in what was essentially an interstate criminal conspiracy to seize and transport children in complete disregard of State and Federal law. (See Arkansas Department of Human Services v Cox, Supreme Court of Arkansas No. 01-1021, 349ark___, issue 3, sc 9, 6 June 2002 <http://courts.state.ar.us/opinions/2002a/20020606/01-1021.wpd>)

The important point being that these child protection system criminals will be pushing the envelop on what they can get away with, as in these examples, and sometimes that envelop will rupture, as in the Rilya Wilson case, exposing not only the criminals but government officials and private citizens who were indirectly benefiting from the criminal activity. The important question being how sophisticated, brutal and embarrassing will organized crime in the child protection system be allowed to become before it is addressed.

In the hope that my documentation of how the organized crime bureaucracy functions in the child protection system will help prevent any repeats of the Rilya Wilson horror story, I draw the material to your attention. Below is the master link page address for six articles I have written on how crime in the child protection is created, organized and managed. The six articles will provide an overview of the context in which a child's kidnapping can be concealed for over a year. Although written for the popular media, each article contains detailed instructions on how to detect various mechanisms used by organized criminals operating in the child protection system to sustain their operations. Part II contains a formula for determining if the annual number of founded child abuse allegations can accurately be predicted from the number of conditional federal salary fund dollars needed to balance the child protection agency payroll.

See links to Parts I-VI of "Crime Management in Government" at:
<http://www.eighthcity.com/Articles/Rogerbrown/rogerbrown.htm>

I sincerely hope you will use this information to determine if the child protection system in your state has an organized crime problem. I do not want to see any more stories like that of Rilya Wilson, when I know they can be prevented by ending the influence of organized crime in the child protection system.

If I may be of further assistance, please contact me at:

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