

HB

14

State Plan for Foster Care and Adoption Assistance

SEC. 471. [42 U.S.C. 671] (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which--

(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this title or under titles I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

TITLE 45--PUBLIC WELFARE CHAPTER XIII--OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES PART 1355--GENERAL--Table of Contents

Sec. 1355.21 State plan requirements for titles IV-E and IV-B. (a) The State plans for titles IV-E and IV-B must provide for safeguards on the use and disclosure of information which meet the requirements contained in section 471(a)(8) of the Act.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

MEMORANDUM

To: Representative Lesil McGuire, Chairwoman
House Judiciary Committee

From: Representative Norman Rokeberg *hnrbyhmn*

Date: April 6, 2005

Re: CSHB 14(HES)

I respectfully request that HB 14, Disclosures by Foster Parents, be scheduled for a hearing. I have attached the following for your information:

1. CSHB 14(HES)
2. HB 14
3. Sponsor Statement
4. Sectional Analysis
5. Fiscal Note
6. Letter from Office of Children's Services with attachments

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SPONSOR STATEMENT FOR CSHB 14(HES)

By: Representative Norman Rokeberg

Title: An Act relating to disclosure of information about a child to a legislator or a member of a legislator's staff; and making conforming changes.

It has been brought to my attention that foster parents are not afforded the same opportunities as parents or legal guardians when discussing confidential matters with legislators. In fact, foster parents are not permitted to discuss ANY confidential matters with legislators.

For example, a foster family is having problems getting reimbursed from the Office of Children's Services (OCS) for a school trip. If the family were to call a legislator's office to get help with the reimbursement, they would not be allowed to provide the name of the child or any confidential information that would help the legislator when communicating with OCS. So the legislator then must contact OCS on the foster parent's behalf with very little information that could help put OCS in the right direction to solving the problem.

I have introduced HB 14 because often a legislator is a foster parent's last line of defense when trying to obtain services or care for a foster child, or if the foster parent is in a disagreement with the Office of Children's Services (OCS). It is important that foster parents be allowed to communicate with their legislator or a member of the legislator's staff.

I urge your support of this legislation.

ED 2: 4/5/05

ALASKA STATE LEGISLATURE

House of Representatives

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LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR CSHB 14 (HES)

By: Representative Norman Rokeberg

Title: An Act relating to disclosure of information about a child to a legislator or a member of a legislator's staff; and making conforming changes.

Section 1: Amends the Child in Need of Aid statute AS 47.10.092(a)(1) by allowing a parent or legal guardian to disclose confidential or privileged information to "a member of a legislator's staff."

Amends AS 47.10.092(a)(2) by permitting a foster parent to disclose confidential or privileged information to a legislator or a member of a legislator's staff. The legislator or staff member is then allowed to disclose appropriate information to a governmental agency as necessary to assist the foster parents.

Amends AS 47.10.092(a)(3) & (4) by adding language to conform to the above sections.

Section 2: Adds "foster parents" to AS 47.10.092(b).

Section 3: Mirrors the provisions of Section 1 in the Delinquent Minors' chapter.

Section 4: Adds "foster parents" to AS 47.12.320(b).

ED 2: 4/5/05

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF CHILDREN'S SERVICES

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110630
JUNEAU, ALASKA 99811-0630
PHONE: (907) 465-3170

JUL 16 2004

July 13, 2004

Honorable Representative Norman Rokeberg
716 W 4th Ave Ste 300
Anchorage, AK 99501-2133

Dear Representative Rokeberg:

It has come to our attention that some of your constituents, who are clients of the Office of Children's Services (OCS), or foster parents for OCS, have complained that OCS staff are attempting to dissuade them from expressing their concerns to legislative members. I am writing today to assure you that I have reminded our staff that this type of action would be inappropriate. (Please see the enclosed memo.)

As you know, AS 47.10.092 permits a parent or legal guardian of a child subject to children in need of aid proceedings to disclose confidential or privileged information about the child, or the child's family, to a legislator for review or use in their official capacities. I have reminded our staff about this provision. However, this statute, does not apply to foster parents. It is possible that OCS staff may have cautioned foster parents about the fact that this statutory disclosure provision does not apply to them. .

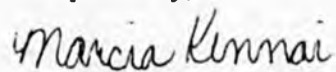
Any parent or legal guardian who chooses to disclose information to a legislator is acting in accordance with the law. However, the law does not extend the same rights of disclosure to other family members or the child's foster parents. Foster parents do receive training on confidentiality issues. They are in jeopardy of a foster care licensing infraction if they violate the confidentiality of a foster child or the foster child's family.

While I believe it is usually in a child's best interests to resolve disputes informally, and at the local level, please note that formal grievance procedures are available to the parents, legal guardians and foster parents involved with the OCS. These parties may seek resolution to their complaints in accordance with 7 AAC 54.205 – 54.240. I have enclosed a copy of the Administrative Code and the OCS Complaint form for your review. Additionally, foster parents may appeal negative foster care licensing actions by requesting an administrative hearing in accordance with AS 47.35.800.

Letter to All Legislators
July 13, 2004
Page 2

As a legislator, your relationship with the OCS and your representation of the children and families involved in the child protection system is very important. Thank you for your dedication and commitment to making a difference in the lives of so many Alaskans. If you have further questions, please feel free to contact me at (907)465-3191.

Respectfully,



Marcia Kennai
Deputy Commissioner

Enclosures

CC: Commissioner Gilbertson
Sherry Hill

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF CHILDREN'S SERVICES

Program Instruction: 05-01

Issue Date: July 13, 2004

From: Marcia Kennai, Deputy Commissioner *mk*

Subject: Clarification of procedures related to client contact with legislators

On a number of occasions, I have received reports that OCS staff have cautioned OCS clients against pursuing grievances with their local legislators. Although I believe the majority of these reports relate to staff who are trying to explain the confidentiality laws to foster parents and those persons considered non-parties to a child protection cases, a reminder and some direction on this topic seems appropriate at this time.

Alaska Statute 47.10.092 states that the parent or legal guardian of a child subject to a child in need of aid proceeding may disclose confidential or privileged information about the child, or the child's family, to a legislator for review or use in their official capacities. Any parent or legal guardian who chooses to disclose information to a legislator is acting in accordance with the law.

OCS staff should never attempt to dissuade a client from exercising this right, nor should any OCS staff respond with negative words or actions after learning that the client has already initiated legislative contact. It is within a client's right to contact that legislator and the only acceptable OCS response is to acknowledge that right.

Even though the law does not extend the same rights of disclosure to other family members or the child's foster parents, OCS staff should never admonish these persons for contacting a legislative office. If you believe that a foster parent or provider is breaching the confidentiality of a foster child or the foster child's family, please report this information to your Licensing Unit.

If you are contacted by a legislative office on the behalf of anyone other than the child's parent or legal guardian, do not disclose confidential or privileged information. Please 1) cite AS 47.10.092 as your reason for not disclosing; and 2) use the opportunity to help the legislator or legislative staff to respond to their constituents concerns by discussing OCS child protection policy and procedure in general terms, leaving the specifics of the child and child's family out of your discussion; or 3) refer legislative personnel to your supervisor; or 4) refer legislative personnel to Mike Lesmann in Central Office.

Thank you for your attention to this matter and thank you for your service to the children and families of Alaska.

C: Joel Gilbertson, Commissioner

ALASKA ADMINISTRATIVE CODE

TITLE 7 HEALTH AND SOCIAL SERVICES

ARTICLE 02 GRIEVANCE PROCEDURE

Section:

- 205. Purpose
- 210. Applicability and exemption
- 220. Procedure: informal meeting
- 230. Panel review
- 240. Resolution

7 AAC 54.205 PURPOSE. The purpose of the grievance procedure in 7 AAC 54.205 - 7 AAC 54.240 is to provide an informal dispute resolution process by which individuals and division staff involved in a dispute can voice their concerns and reach a fair resolution agreeable to all. (Eff. 5/4/90, Register 114)

Authority: AS 47.05.010 AS 47.14.010 -

7 AAC 54.210 APPLICABILITY AND EXEMPTION. (a) 7 AAC 54.210 - 7 AAC 54. describe how individuals can present grievances to the division concerning division procedures or services.

(b) An aggrieved individual may file a grievance on the following grounds:

- (1) the application of a division policy or procedure;
- (2) an action or failure to act by the division; or
- (3) division action under AS 47.35 short of the denial, involuntary conditioning, suspension, or revocation of a license; an aggrieved individual may file a grievance on a division licensing investigation only after the investigation is complete.

(c) The grievance procedure is not available

- (1) to a resident of a state-operated juvenile correctional facility or juvenile detention facility for which procedures developed by the superintendent under 7 AAC 52.095 apply;
- (2) to a state employee unless the employee is also a client of the division, a client's parent or guardian, or a service provider for the division;
- (3) for contract or agreement for services disputes;
- (4) to appeal late payments or to contest rates paid;
- (5) to complain of child placement or removal decisions of the division as a result of intervention under AS 47.10;
- (6) to complain of a denial, involuntary conditioning, suspension, or revocation of a license for which an appeal is available under AS 44.62;
- (7) to appeal a decision regarding grant programs for which an appeal is available under 7 AAC 78.310 ; and

(8) to appeal a decision regarding civil rights actions covered under the department's civil rights complaint procedures. (Eff. 5/4/90, Register 114; am 1/14/2000, Register 153)

Authority: AS 47.05.010 AS 47.14.010 -

7 AAC 54.220 PROCEDURE: INFORMAL MEETING. (a) An aggrieved individual shall submit a written complaint, on a form provided by the division, stating the specific concern and stating the desired relief sought. The aggrieved individual shall submit the complaint to the supervisor of the person whose actions are being grieved. The supervisor will provide a copy of the procedures in 7 AAC 54.210 - 7 AAC 54.240 to the aggrieved individual. Within three working days after receiving the complaint, the supervisor will determine

- (1) the nature of the complaint;
- (2) whether the action or inaction of the division is part of the complaint and, if so, the specific actions or inactions alleged as the basis of the complaint; and
- (3) whether use of the grievance procedure in 7 AAC 54.210 - 7 AAC 54.240 is applicable.

(b) If the supervisor determines that the grievance procedure in 7 AAC 54.210 - 7 AAC 54.240 is not applicable, the supervisor will notify the complainant and the regional administrator in writing of the reasons why the grievance procedure does not apply and what other course of action the complainant may pursue. The complainant may appeal to the regional administrator a supervisor's decision that the grievance procedure does not apply. If the regional administrator made the initial decision, the complainant may appeal to the director.

(c) A foster parent may submit a stop removal request to the regional administrator that a child not be removed from the foster home during grievance procedure action; however, it is within the division's authority to make the decision. The regional administrator will consider a stop removal request made by a foster parent unless the intended removal plan is a result of an allegation of abuse or neglect in the foster home, or a court order.

(d) If the complaint involves an action of a division staff member who is directly supervised by the regional administrator, the complainant shall file the written complaint with the regional administrator. The regional administrator will make a recommendation to the director.

(e) If the supervisor determines that the grievance should be processed under the procedure in 7 AAC 54.210 - 7 AAC 54.240, the supervisor will contact the complainant to schedule an informal meeting with the complainant and the involved division staff. The supervisor will schedule the informal meeting to be held within 10 working days after receipt of the complaint by the supervisor, unless one or more of the individuals entitled to participate is unable to attend for good cause within that period. The person unable to attend shall submit the reasons in writing, and the supervisor will schedule the meeting to be held within five calendar days after the day the person becomes available to attend.

(f) The supervisor will conduct the meeting in an informal manner. Each individual will be permitted to state his or her understanding of the facts at issue in the complaint and suggestions for resolution. Upon the agreement of the parties, the supervisor will, in his or her discretion, use teleconferencing to conduct the informal meeting. If more than one grievance is filed, the supervisor may schedule more than one informal meeting or may consolidate the grievances. If

more than one informal meeting is necessary, the supervisor will schedule subsequent meetings to be held as soon as possible.

(g) The provisions of 7 AAC 54.010 - 7 AAC 54.150 and 7 AAC 54.900 regarding confidentiality of information on clients apply to the grievance procedure in 7 AAC 54.210 - 7 AAC 54.240.

(h) At the conclusion of the informal meeting the supervisor will complete a grievance procedure meeting summary form including what action, if any, was or will be taken. The supervisor and parties involved shall sign and receive a copy of the completed grievance procedure meeting summary form. Signature on the form indicates agreement with the summary of the meeting as described on the form.

(i) If a resolution is not agreed upon in the meeting, the supervisor will, within five working days after the final informal meeting, complete a written statement of the supervisor's proposed resolution and mail it to all parties. The supervisor will include the grounds for the complaint, a statement of the facts, actions taken or planned to resolve the complaint, a statement of the right to request a review of the supervisor's proposed resolution by a regional appeal panel appointed by the division director, and the name and office address of the regional manager or administrator. The supervisor will also inform the complainant of the right to include a statement for the regional appeal panel's review.

(j) The complainant may accept the supervisor's proposed resolution or may request a regional appeal panel review. A complainant who requests a regional appeal panel review shall submit the request in writing to the regional administrator within 15 working days after receipt of the supervisor's proposed resolution.

(k) The division will, in its discretion, grant a waiver of the procedures in this section if the division determines that a waiver will result in the division's ability to reach a more informed decision. (Eff. 5/4/90, Register 114; am 11/16/94, Register 132)

Authority: AS 47.05.010 AS 47.14.010 -

7 AAC 54.230 PANEL REVIEW. (a) A regional appeal panel consists of a regional administrator or designee; a social worker V or a probation officer IV; and a private citizen having expertise in the provision or administration of human services programs. A program specialist from the division's state or regional office may be selected by the regional administrator to serve on the panel in place of the regional administrator, the social worker V, or the probation officer IV.

(b) Following receipt of a request for a panel review, the regional administrator will ensure that as soon as possible but within 21 working days a regional appeal panel has been appointed and that each panel member has received a copy of the complainant's grievance file.

(c) Upon the agreement of the panel members, the panel may use teleconferencing to conduct the review of the case.

(d) Within 10 working days after receiving the complainant's grievance file, panel members will review the grievance file and conduct a fact-finding meeting. If the complainant chooses to appear before the panel during the fact-finding meeting, involved division staff may also attend. The panel may also ask for information from additional sources, in which case the complainant

and any involved division staff member will be allowed to review the additional information and to supplement the record with additional information. If the complainant or an involved division staff member is unable to be present during the fact-finding meeting, the individual shall advise the panel in writing of the reasons the individual is unable to be present and give a date when the individual will be available. The panel will reschedule the fact-finding meeting to be held within five working days after the day the individual becomes available.

(e) The panel will hold a deliberation meeting within five working days after the fact-finding meeting under (d) of this section. The deliberation meeting may immediately follow the fact-finding meeting. The complainant and involved division staff may not attend the deliberation.

(f) The panel will issue a written report of findings, recommendations, and proposed resolution to the director within 10 working days after the deliberation meeting under (e) of this section. The panel will send a copy of the report to all parties involved.

(g) The division will, in its discretion, grant a waiver of the procedures in this section if the division determines that a waiver will result in the division's ability to reach a more informed decision. (Eff. 5/4/90, Register 114; am 11/12/94, Register 132)

Authority: AS 47.05.010 AS 47.14.010 -

7 AAC 54.240 RESOLUTION. Within 15 working days after receipt of the written report of the regional appeal panel, the director will issue a final written resolution. The director will mail a copy of the final resolution to the parties involved in the dispute. (Eff. 5/4/90, Register 114)

Authority: AS 47.05.010 AS 47.14.010 -

ARTICLE 04 GENERAL PROVISIONS

7 AAC 54.900 DEFINITIONS. (a) In this chapter

(1) "aggrieved individual" means a client, a client's parent or guardian, or a provider of services of the division;

(2) "child" means an individual under 18 years of age, and an individual 18 or 19 years of age who is a ward of the state;

(3) "complainant" means an aggrieved individual who has filed a complaint with a supervisor or the director;

(4) "department" means the Department of Health and Social Services;

(5) "director" means the director of the division of family and youth services, or the director of the division of juvenile justice, as appropriate in accordance with 7 AAC 54.010 and 7 AAC 54.300, in the department;

(6) "division" means the division of family and youth services or the division of juvenile justice, as appropriate in accordance with 7 AAC 54.010 and 7 AAC 54.300, in the department;

(7) "probation officer IV" means a division employee responsible for regional supervision of juvenile probation services;

(8) "regional administrator" means the division employee who has responsibility and authority for actions of the division in a region of the state;

(9) "social worker V" means a division employee responsible for regional supervision of family services;

(10) "state office" means the headquarters office of the division;

(11) "supervisor" means the division employee who has responsibility and authority for the administration of a work unit; in the case of a complaint involving a facility, "supervisor" means the division employee, usually a superintendent, who has the overall responsibility and authority to administer the operations of the entire facility.

(b) In AS 47.12.310 and this chapter, "appropriate information" includes the name of the juvenile and other information that the department considers appropriate upon consideration of the welfare of the juvenile and the safety of the community. (Eff. 5/15/83, Register 86; am 5/4/90, Register 114; am 11/16/94, Register 132; am 1/14/2000, Register 153)

Authority:	AS 47.05.010	AS 47.05.015	AS 47.05.020
	AS 47.05.030	AS 47.05.040	AS 47.10.090
	AS 47.12.310	AS 47.14.010	AS 47.17.040
	AS 47.35.039		

COMPLAINT
(Under Grievance Procedures)

A written statement is to be completed by the aggrieved individual and submitted to the Supervisor of the person whose actions are being grieved or to the Children's Services Manager, if the complaint is against a person directly supervised by the Children's Services Manager.

Today's Date: ___/___/___

Date Incident Occurred or Complaint Originated: ___/___/___

Who are all the persons involved in the situation?

Name	Address	Phone
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Statement of Complaint: _____

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 14(HES)
 (H) Publish Date: 4/6/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title DISCLOSURE OF INFORMATION TO
LEGISLATORS OR LEGISLATIVE STAFF

RDU Children's Services
 Component Front Line Social Workers

Sponsor ROKEBERG
 Requester HOUSE (HES)

Component No. 2305

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	*	*	*	*	*	*
Travel	*	*	*	*	*	*
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
1007 Inter-Agency Receipts						
Other(Specify Type-do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2005) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time					
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

If HB14 becomes law, we anticipate the number of inquiries will increase, but lack a solid methodology to calculate the potential increase. The department is submitting an indeterminate fiscal note at this time.

HB 14 proposes to allow foster parents of children in department custody to disclose privileged and confidential information regarding a child and/or a child's family to a legislator and/or a member of a legislator's staff. There are more than 1,000 licensed foster homes and up to 2,000 children placed in out-of-home care. The OCS now receives

Prepared by: Tammy Sandoval, Acting Deputy Commissioner Phone 465-3191
 Division Office of Children's Services Date/Time 03/30/2005
 Approved by: Joel S. Gilbertson, Commissioner Date 03/30/2005
 Agency Department of Health and Social Services

FISCAL NOTE
FN # 1

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSHB 14(HES)

ANALYSIS CONTINUATION

approximately 840 inquiries annually, it could be assumed that inquiries are being made on more than 40% of the children placed. Responses may include the need for case research and review, additional inquiries, documentation of the inquiry, and a written response. Any potential increase in workload is of concern with caseloads that exceed national standards by as much as 37%.