

**HB**

**248**

# Representative Mike Hawker

## Alaska State Legislature

### *Session:*

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### *Member:*

House Finance Committee  
Legislative Budget  
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### *House District 32:*

Eagle River  
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Bird  
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Portage  
Whittier  
Sunrise  
Hope

## House Bill 248 Sponsor Statement

**"An Act relating to the exemption from public inspection of certain records and information of public agencies that are compiled in connection with peace or correctional officers."**

House Bill 248 will protect law enforcement officers from being targeted for frivolous lawsuits. Currently, a person can request a copy of a peace officer's Internal Affairs (IA) files through the Freedom of Information Act. There have been incidents where this information is received and evaluated to determine if the officer is vulnerable to civil litigation due to previous complaints, even if those complaints have been found to be false, not sustained or unfounded.

If an individual has been wrongfully treated by an officer, he or she still has the right to bring suit against the officer. The officer's IA files can then be reviewed "in camera" by a judge to determine what information is relevant to the case in question. Those files are then released for use during the court case. This procedure protects officers from prospective litigants "case shopping" to determine which officer would be the best target for a suit.

The changes made by this bill would not prevent a private citizen from obtaining general information about complaints – including the number, type and disposition of complaints filed against a particular facility or office, as long as the information doesn't personally identify the officer.

Troopers, Police Officers and Correctional Officers are in daily contact with the criminal element of society and especially exposed to their scrutiny. Passage of HB 248 will protect peace officers, while still allowing a person who has a legitimate cause to bring suit. Thank you for your consideration of this legislation.

24-LS0768\Y  
Bannister  
4/11/05

**CS FOR HOUSE BILL NO. 248( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE HAWKER**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the exemption from public inspection of certain records and**  
2 **information of public agencies that are compiled in connection with internal**  
3 **investigations or proceedings."**

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

5 **\* Section 1. AS 40.25.120(a) is amended to read:**

6 (a) Every person has a right to inspect a public record in the state, including  
7 public records in recorders' offices, except

8 (1) records of vital statistics and adoption proceedings, which shall be  
9 treated in the manner required by AS 18.50;

10 (2) records pertaining to juveniles unless disclosure is authorized by  
11 law;

12 (3) medical and related public health records;

13 (4) records required to be kept confidential by a federal law or  
14 regulation or by state law;

1 (5) to the extent the records are required to be kept confidential under  
2 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure  
3 or retain federal assistance;

4 (6) records or information compiled for law enforcement purposes, but  
5 only to the extent that the ~~production~~ production of the law enforcement records or information

6 (A) could reasonably be expected to interfere with enforcement  
7 proceedings;

8 (B) would deprive a person of a right to a fair trial or an  
9 impartial adjudication;

10 (C) could reasonably be expected to constitute an unwarranted  
11 invasion of the personal privacy of a suspect, defendant, victim, or witness;

12 (D) could reasonably be expected to disclose the identity of a  
13 confidential source;

14 (E) would disclose confidential techniques and procedures for  
15 law enforcement investigations or prosecutions;

16 (F) would disclose guidelines for law enforcement  
17 investigations or prosecutions if the disclosure could reasonably be expected to  
18 risk circumvention of the law; [OR]

19 (G) could reasonably be expected to endanger the life or  
20 physical safety of an individual; or

21 (H) would disclose the contents of an internal investigation  
22 or proceeding of a public agency, except to the extent a court orders  
23 otherwise;

24 (7) names, addresses, and other information identifying a person as a  
25 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the  
26 advance college tuition savings program under AS 14.40.803 - 14.40.817;

27 (8) public records containing information that would disclose or might  
28 lead to the disclosure of a component in the process used to execute or adopt an  
29 electronic signature if the disclosure would or might cause the electronic signature to  
30 cease being under the sole control of the person using it;

31 (9) reports submitted under AS 05.25.030 concerning certain

1 collisions, accidents, or other casualties involving boats;

2 (10) records or information pertaining to a plan, program, or  
3 procedures for establishing, maintaining, or restoring security in the state, or to a  
4 detailed description or evaluation of systems, facilities, or infrastructure in the state,  
5 but only to the extent that the production of the records or information

6 (A) could reasonably be expected to interfere with the  
7 implementation or enforcement of the security plan, program, or procedures;

8 (B) would disclose confidential guidelines for investigations or  
9 enforcement and the disclosure could reasonably be expected to risk  
10 circumvention of the law; or

11 (C) could reasonably be expected to endanger the life or  
12 physical safety of an individual or to present a real and substantial risk to the  
13 public health and welfare;

14 (11) the written notification regarding a proposed regulation provided  
15 under AS 24.20.105 to the Department of Law and the affected state agency and  
16 communications between the Legislative Affairs Agency, the Department of Law, and  
17 the affected state agency under AS 24.20.105.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 248  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
 Title "An act relating to the exemption from public RDU Administration & Support  
inspect of records .... Connection of or correctional officers." Component Commissioner's Office  
 Sponsor Representative Hawker  
 Requester State Affairs, Judiciary Component No. 694

**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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<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>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</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>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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 (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

The Department of Corrections does not anticipate a significant fiscal impact with passage of this legislation. Employee records are maintained by the Division of Personnel, Department of Administration.

Prepared by: Sharleen Griffin, Acting Director Phone 465-4641  
 Division Administrative Services Date/Time 4/26/05 6:53 AM  
 Approved by: Portia Parker, Deputy Commissioner Date 4/26/2005  
 Agency Department of Corrections

Q 5 What is meant by "La Entremis Propos"?

Write a Definition of "La Entremis Propos"?

Page 2 line 5: production in ex of statute  
"production of Documents" term of Art 1

→ public law (sec 7)

Not to go

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# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB248-LAW-CDCO-4-26  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act relating to the exemption from public RDU CRIMINAL  
inspection of certain records and information..." Component Criminal Justice Litigation  
 Sponsor Representative Hawker  
 Requester House State Affairs Component No. \_\_\_\_\_

**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						
<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>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<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 (FY2005) cost: 0.0  
 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)

This bill amends AS 40.25.120 (Public Records) by adding a new subsection that would allow certain information about peace officers or correctional officers to be disseminated to a requestor.

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
 Division Administrative Services Division Date/Time 4/25/05 5:33 PM  
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 4/25/2005  
 Agency Department of Law

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB248-DPS-ASTD-4-28-05  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An Act relating to the exemption from public RDU Alaska State Troopers  
inspection of certain records and information..." Component: AST Detachments  
 Sponsor: Representative Hawker  
 Requester: House State Affairs Component No.: 2325

**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						
<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>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<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 (FY2005) cost: 0.0  
 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)

Passage of this bill will not have a fiscal impact on the Alaska State Troopers.

Note: After conferring with the bill sponsor, it became apparent that the language drafted for this legislation was going to have the opposite effect of the sponsor's intent. No further comment will be offered for this original bill as a complete rewrite will be addressed in committee.

Prepared by: Lieutenant Todd Sharp Phone 907-269-4532  
 Division: Alaska State Troopers Date/Time 4/25/05 4:53 PM  
 Approved by: Commissioner William Tandeske Date 4/25/2005  
 Agency: Department of Public Safety