

HB

136

Alaska State Legislature



Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
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Re HB 136 - PUBLIC RECORDS EXCEPTIONS

3/10/09

HB 136 (26-LS0574\E) passed out of the House State Affairs Committee this morning amended.
Please draft a final CS with the following changes:

Amendment #1 (Seaton)
Delete Section 1

Revisor's notes. — In 1981, in subsection (b), the words "a political subdivision" were substituted for "any local government".

Sec. 18.65.285. Municipal correctional employees. A municipality that employs persons in a municipal correctional facility may, by ordinance, require that those persons meet the requirements of AS 18.65.130 — 18.65.290 that are applicable to municipal correctional officers. (§ 7 ch 112 SLA 1988; am § 8 ch 126 SLA 1998)

Revisor's notes. — Enacted as AS 18.65.280(c). effective September 21, 1998, inserted "municipal" near the end.
Renumbered in 1988.

Effect of amendments. — The 1998 amendment.

Sec. 18.65.290. Definitions. In AS 18.65.130 — 18.65.290,

(1) "chief administrative officer" means a chief of police or other official who is head of a police department in a political subdivision;

(2) "correctional facility" means a prison or jail owned, leased, or operated by the state that is designated by the commissioner of corrections for the custody, care, security, control, and discipline of prisoners;

(3) "correctional officer" means a person

(A) appointed by the commissioner of corrections whose primary duty under AS 33.30 is to provide custody, care, security, control, and discipline of persons charged or convicted of offenses against the state or held under authority of state law; or

(B) employed in a correctional facility in this state whose primary duty is to provide custody, care, security, control, and discipline of persons charged or convicted of offenses or held under authority of law;

(4) "council" means the Alaska Police Standards Council;

(5) "municipal correctional officer" means a person who is employed full-time in a municipal correctional facility whose primary duty is to provide custody, care, security, control, and discipline of persons charged or convicted of offenses or held under authority of law; and the municipality has adopted an ordinance under AS 18.65.285 making AS 18.65.130 — 18.65.290 applicable;

(6) "parole officer" means a person appointed by the commissioner of corrections or employed by a correctional facility in this state to perform the duties of supervising the parole of prisoners under AS 33.16;

(7) "police officer" means

(A) a full-time employee of the state or a municipal police department with the authority to arrest and issue citations; detain a person taken into custody until that person can be arraigned before a judge or magistrate; conduct investigations of violations of and enforce criminal laws, regulations, and traffic laws; search with or without a warrant persons, dwellings, and other forms of property for evidence of a crime; and take other action consistent with exercise of these enumerated powers when necessary to maintain the public peace;

(B) an officer or employee of the Department of Transportation and Public Facilities who is stationed at an international airport and has been designated to have the general police powers authorized under AS 02.15.230(a);

(C) a University of Alaska public safety officer with general police powers authorized under AS 14.40.043;

(8) "probation officer" means a person appointed by the commissioner of corrections or employed by a correctional facility in this state to perform the duties of a probation officer under AS 33.05. (§ 1 ch 178 SLA 1972; am §§ 10, 11 ch 19 SLA 1981; am § 8 ch 112 SLA 1988; am § 1 ch 71 SLA 1989; am § 2 ch 107 SLA 1992; am § 2 ch 10 SLA 1998; am § 9 ch 126 SLA 1998; am §§ 1 — 4 ch 160 SLA 2004)

Revisor's notes. — Reorganized in 1986, 1988, and 1998 to alphabetize the defined terms. Paragraph (2) was enacted in 2004 as paragraph (8) and renumbered in 2004, at which time paragraphs (2)-(7) were renumbered as (3)-(8).

Effect of amendments. — The first 1998 amendment, effective April 14, 1998, in subparagraph (7)(A) [formerly (6)(A)], substituted "municipal" for "local" near the beginning and deleted "carry a concealed weapon" following "evidence of a crime" near the end.

The second 1998 amendment, effective September 21, 1998, added paragraph (5) [formerly (4)].

The 2004 amendment, effective July 23, 2004, added paragraph (8) [now (2)], added paragraph (2)(B) [now (3)(B)] and made related changes, and inserted "or employed by a correctional facility in this state" in paragraphs (5) and (7) [now paragraphs (6) and (8)].

Legislative history reports. — For Senate letter of intent in connection with the amendment to (5) (now (6)) of this section by § 1, ch. 71, SLA 1989 (SSSB 110), see 1989 Senate Journal 602.

Opinions of attorney general. — To be a police officer within the meaning of this statute, an officer must be currently working full time for a police department, that is an organized civil force whose basic purpose and function is to maintain peace and order and to prevent and investigate criminal offenses. September 18, 1977 Op. Att'y Gen.

As applied to the coverage of AS 18.65.130 — 18.65.290, the term "police officer" is more restrictively defined than the definition in AS 01.10.060 to include all those full-time employees of police departments administered by the state or one of its political subdivisions, who have full police duties and the authority to enforce all of the laws of the State of Alaska which carry a penalty for their violation. September 18, 1977 Op. Att'y Gen.

Comparing the classification of "peace officer" in AS 01.10.060 with that of "police officer," it is apparent that police officers, as defined in paragraph (3) [now paragraph (7)], are always peace officers since they have full police duties that are exercised on a full-time basis. However, the converse of this proposition can never be the case: that is, peace officer status does not automatically vest one with the status of a police officer since peace officers are not necessarily employees of a police department and do not necessarily have the power to enforce all the penal, traffic or highway laws of the state. September 18, 1977 Op. Att'y Gen.

Most Village Public Safety Officers and Village Police Officers are not "police officers" under the definition in paragraph (3) [now paragraph (7)]. Whether an individual officer is subject to regulation by the Alaska Police Standards Council depends upon the circumstances of his or her employment and has to be determined on a case-by-case basis. July 1, 1984 Op. Att'y Gen.

NOTES TO DECISIONS

Youth counselors at McLaughlin Youth Center are not "correctional officers" within the meaning of paragraph (3) [formerly (2)], but the term "correctional officer" formerly used in AS 12.55.125(c)(2) encompassed the youth counselors at McLaughlin.

Wilson v. State, 967 P.2d 98 (Alaska Ct. App. 1998).

Applied in *Clark v. State*, 738 P.2d 772 (Alaska Ct. App. 1987).

Quoted in *Alaska Inter-Tribal Council v. State*, 110 P.3d 947 (Alaska 2005).

Article 3. Identification Cards.

- Section**
310. Identification cards
311. Anatomical gift

- Section**
320. Cancellation of identification card
330. Definition

Sec. 18.65.310. Identification cards. (a) Upon payment of a \$15 fee, the department shall issue a card identical to the motor vehicle operator's license provided for in AS 28.15.111, except that the card shall be of a different color and shall state in bold type letters across the face of it that it is for identification purposes only.

(b) A person may obtain an identification card provided for in (a) of this section by applying to the department on forms and in the manner prescribed by the department.

(c) Any person who knowingly makes a fraudulent written statement or application for an identification card concerning age, race, sex, or other identifying characteristics as required by the department is guilty of a misdemeanor.

(d) It is a misdemeanor for any person to possess, use, produce, or manufacture a fraudulent identification card.

(e) It is a misdemeanor for a person to allow an identification card issued to that person to be used by any other person.

(f) A person who violates (c), (d), or (e) of this section is guilty of a misdemeanor punishable by a fine of \$500 or 60 days in jail, or both.

(g) If the person applying for the identification card provided for in (a) of this section is 60 years of age or older, charge may not be made for issuance of the card.

(h) The department shall cancel the identification card of a person on whom a restriction has been imposed under AS 04.16.160 unless the person's identification card

contains the information subsection remains in effect from purchasing alcoholic t

(i) The department shall applicant who is restricted the same manner required received a marked identific: card when the period of res

(j) The department shall card under (i) of this section 59 SLA 1982; am § 1 ch 50 2002; am § 26 ch 24 SLA 2

Cross references. — For legisl intent regarding the 2002 amendr section, see § 1, ch. 63, SLA 2002, porary and Special Acts.

Effect of amendments. — The

Sec. 18.65.311. Anatom: time that an identification anatomical gift under AS 15 holder may cancel the gift.

(b) An employee of the de other than an application re applicant wishes to execute posters and brochures in the requested, make known to th an anatomical gift under AS identification card in writing the gift is made with the reg the identification card to a d shall also direct the applicar under AS 13.50.140 if the ic revoked under AS 13.52.183. 13.50.100 — 13.50.190. (§ 7 c 1997; am § 4 ch 68 SLA 200

Revisor's notes. — In 2004, in su 13.52" was substituted for "AS 13.5 anatomical gift in a living will unde "AS 13.52.170" was substituted for " order to reconcile chs. 68 and 83, SL

Effect of amendments. — The fir ment, effective September 14, 2004, tion, which had provided for an anate ment.

Sec. 18.65.320. Cancellat: cancel an identification card if correct information in the pers cation by the person or reissua (b) A person whose identific department. Failure to return a cancellation is a violation puni

(2) by providing other proof of intent as may be required by law or regulation, which may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

(c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory, or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state. (§ 1 ch 67 SLA 1983)

NOTES TO DECISIONS

Jurisdiction over divorce action. — This section does not affect the common-law rule that Alaska courts have jurisdiction over a divorce action when one of the parties is domiciled in Alaska, where "domicile" is defined as physical presence plus an intent to remain permanently. *Perito v. Perito*, 756 P.2d 895 (Alaska 1988).

Quoted in *E.H. v. State*, 23 P.3d 1186 (Alaska 2001).

Stated in *State v. Andrade*, 23 P.3d 58 (Alaska 2001).

Sec. 01.10.060. Definitions. (a) In the laws of the state, unless the context otherwise requires,

- (1) "action" includes any matter or proceeding in a court, civil or criminal;
 - (2) "daytime" means the period between sunrise and sunset;
 - (3) "month" means a calendar month unless otherwise expressed;
 - (4) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;
 - (5) "nighttime" means the period between sunset and sunrise;
 - (6) "oath" includes affirmation or declaration;
 - (7) "peace officer" means
 - (A) an officer of the state troopers;
 - (B) a member of the police force of a municipality;
 - (C) a village public safety officer;
 - (D) a regional public safety officer;
 - (E) a United States marshal or deputy marshal; and
 - (F) an officer whose duty it is to enforce and preserve the public peace;
 - (8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;
 - (9) "personal property" includes money, goods, chattels, things in action, and evidences of debt;
 - (10) "property" includes real and personal property;
 - (11) "real property" is coextensive with land, tenements, and hereditaments;
 - (12) "signature" or "subscription" includes the mark of a person who cannot write, with the name of that person written near the mark by a witness who writes the witness's own name near the name of the person who cannot write; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names to the sworn statement;
 - (13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;
 - (14) "writing" includes printing.
- (b) In the laws of the state, "lewd conduct," "lewd touching," "immoral conduct," "indecent conduct," and similar terms do not include the act of a woman breast-feeding a child in a public or private location where the woman and child are otherwise authorized to be. Nothing in this subsection may be construed to authorize an act that is

an offense under AS 1 ch 117 SLA 1968; am § 1998; am § 2 ch 97 SL

Revisor's notes. — Reorg; betize the defined terms.

Cross references. — For "peace officer", see AS 11.81.90 officers for purposes of the Fi AS 16.05.150; for a definition o 18.65.290; for legislative findir enactment of subsection (b), se in the 1998 Temporary and Sp

For legislative findings relat ment of subsection (b), see § 1, 1998 Temporary and Special A

Effect of amendments. — effective September 6, 1998, ad

The 2001 amendment, effec added present subparagraph (nated subsequent subparagraph

Opinions of attorney gene framework of the Alaska Statut contemplates that for any publi enforcement officer to be consid within the meaning of present she must be empowered with a duties and authority and must b ing on essentially a full-time bas tember 18, 1977 Op. Att'y Gen.

Law enforcement officers withr officers" as used in present parag are not limited to, state trooper protection officers and police of police departments of incorpora September 18, 1977 Op. Att'y Gen

Law enforcement officers with thory with respect to specific stat are not police officers and are not officers either, at least within the r paragraph (7). September 18, 1977

Retirement plan interest. — did not err in holding that a feder attach to debtor's interest in a retire pension plan, as such interest const property" within the meaning of this United States, 152 Bankr. 615 (Bank

State as "person". — Subsecti necessarily exclude political entities tion of "person". Accordingly, the Sta properly considered a "person" for 1 struing the rule of judicial disqualifi for in AS 22.20.020. *Mustafoski v. Sta* (Alaska Ct. App. 1994).

Applied in *Halligan v. State*, 624 P

Sec. 01.10.065. Registered authorized or required by the requested, may be used. (§ 1 c

Article 3. Effect

- Section**
- 70. Time statutes become law and tak
 - 80. Computation of time

an offense under AS 11.61.123. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968; am § 19 ch 74 SLA 1985; am § 1 ch 60 SLA 1990; am § 2 ch 78 SLA 1998; am § 2 ch 97 SLA 2001)

Revisor's notes. — Reorganized in 1985 to alphabetize the defined terms.

Cross references. — For additional definition of "peace officer", see AS 11.81.900(b); for listing of peace officers for purposes of the Fish and Game Code, see AS 16.05.150; for a definition of "police officer", see AS 18.65.290; for legislative findings relating to the 1998 enactment of subsection (b), see § 1, ch. 78, SLA 1998 in the 1998 Temporary and Special Acts.

For legislative findings relating to the 1998 enactment of subsection (b), see § 1, ch. 78, SLA 1998 in the 1998 Temporary and Special Acts.

Effect of amendments. — The 1998 amendment, effective September 6, 1998, added subsection (b).

The 2001 amendment, effective October 8, 2001, added present subparagraph (a)(7)(D) and redesignated subsequent subparagraphs accordingly.

Opinions of attorney general. — The statutory framework of the Alaska Statutes viewed as a whole contemplates that for any publicly employed law enforcement officer to be considered a peace officer within the meaning of present paragraph (7), he or she must be empowered with a full range of police duties and authority and must be currently functioning on essentially a full-time basis in that role. September 18, 1977 Op. Att'y Gen.

Law enforcement officers within the category "peace officers" as used in present paragraph (7) include, but are not limited to, state troopers, fish and wildlife protection officers and police officers employed by police departments of incorporated municipalities. September 18, 1977 Op. Att'y Gen.

Law enforcement officers with limited police authority with respect to specific statutes or ordinances are not police officers and are not necessarily peace officers either, at least within the meaning of present paragraph (7). September 18, 1977 Op. Att'y Gen.

Comparing the classification of "peace officer" in present paragraph (7) with that of "police officer," it is apparent that police officers, as defined in AS 18.65.290(6) [now AS 18.65.290(7)], are always peace officers since they have full police duties that are exercised on a full-time basis. However, the converse of this proposition can never be the case; that is, peace officer status does not automatically vest one with the status of a police officer since peace officers are not necessarily employees of a police department and do not necessarily have the power to enforce all the penal, traffic or highway laws of the state. September 18, 1977 Op. Att'y Gen.

Because AS 11.55.020 (now AS 11.61.220) excepts only "peace officers" from the general prohibition against carrying concealed weapons, other persons, including state employees charged with limited law enforcement duties, unless a peace officer within the meaning of present paragraph (7), may not carry concealed weapons. December 22, 1977 Op. Att'y Gen.

A comparison of the language of AS 18.65.010(b), which describes the general powers and duties of a specially commissioned officer, with that of AS 18.65.080, which describes the powers and duties of commissioned officers of the Department of Public Safety with particular reference to "member" of the state troopers, supports the conclusion that a specially commissioned officer is a "peace officer" for purposes of both subsection (7) of this section and AS 11.55.020 (now AS 11.61.220) when performing law enforcement duties within the limitations set forth on the face of a special commission and furthermore, may carry concealed weapons without violating AS 11.55.010 (now AS 11.61.220) while performing these duties to the extent permitted by the commission itself. December 22, 1977 Op. Att'y Gen.

NOTES TO DECISIONS

Retirement plan interest. — Bankruptcy court did not err in holding that a federal tax lien could attach to debtor's interest in a retirement savings and pension plan, as such interest constituted a "right of property" within the meaning of this section. Raihl v. United States, 152 Bankr. 615 (Bankr. 9th Cir. 1993).

State as "person". — Subsection (8) does not necessarily exclude political entities from the definition of "person". Accordingly, the State of Alaska was properly considered a "person" for purposes of construing the rule of judicial disqualification provided for in AS 22.20.020. Mustafoski v. State, 867 P.2d 824 (Alaska Ct. App. 1994).

Applied in Halligan v. State, 624 P.2d 281 (Alaska

1981); Clark v. State, 738 P.2d 772 (Alaska Ct. App. 1987).

Quoted in Matanuska-Susitna Borough v. King's Lake Camp, 439 P.2d 441 (Alaska 1968); Stroh v. Alaska State Hous. Auth., 459 P.2d 480 (Alaska 1968); Hull v. Alaska Fed. Sav. & Loan Ass'n, 658 P.2d 122 (Alaska 1983); Von Gemmingen v. First Nat'l Bank, 789 P.2d 353 (Alaska 1990); State, Dep't of Revenue ex rel. Gerke v. Gerke, 942 P.2d 423 (Alaska 1997).

Cited in Foltz-Nelson Architects v. Kobylk, 749 P.2d 1347 (Alaska 1988); D.H. Blattner & Sons v. N.M. Rothschild & Sons, 55 P.3d 37 (Alaska 2002).

Sec. 01.10.065. Registered mail, certified mail. When the use of registered mail is authorized or required by the laws of the state, certified mail, with return receipt requested, may be used. (§ 1 ch 66 SLA 1965)

Article 3. Effect and Effective Date of Statutes.

Section

- 70. Time statutes become law and take effect
- 80. Computation of time

Section

- 90. Retrospective statutes
- 100. Effect of repeals or amendments

Rep. Max Gruenberg

Do you know this guy?

From: Weddleton, Sharon B. [WeddletonSB@ci.anchorage.ak.us]
Sent: Saturday, March 07, 2009 6:43 PM
To: Rep. Carl Gatto; Rep. Jay Ramras; Rep. Nancy Dahlstrom; Rep. John Coghill; Rep. Bob Lynn; Rep. Max Gruenberg; Rep. Lindsey Holmes
Cc: Dana Strommen; McGee, Marty; Moore, Daniel A.; Reeves, James N.
Subject: HB 136 - An Act limiting the release of certain information concerning public employees or officials

Your Honors:

Thank you for the opportunity to supply written comments to supplant my verbal testimony in opposition of HB 136 (Bill) provided last week. Due to time constraints, I was unable to finish my verbal testimony during the committee hearing.

To reiterate and conclude my testimony, the Municipality of Anchorage (MOA) believes:

- A. While the intent of the Bill is good, amendments will be needed to narrow the Bill's footprint and not inadvertently overly-burden Alaskan Cities, Boroughs and Municipalities. The MOA believes that by narrowing the Bill, most of the desired objective can still be achieved, but at substantially lower administrative cost.
 - a. Only **property appraisal/tax websites** should be covered by this Bill. By restricting the Bill to property appraisal/tax websites, the "easiest" way to locate a person's home address is eliminated.
 - b. If this narrowing measure is not added to the Bill, the broad wording of the bill could administratively affect many items that do not pose unreasonable risk to employees:
 - i. Dispensing a pay stub to a payroll clerk for subsequent distribution
 - ii. Transferring PERS information to the State
 - iii. Transferring W-2 information to the IRS
 - iv. Distributing levy-upon-connection rolls
 - v. Publishing tax delinquency and foreclosure notices
 - vi. Administering the Alaska Department of Public Safety Sex Offender/Child Kidnapper Registry
 - vii. Administering COBRA benefits
 - viii. Administering health insurance benefits through an employer's third party administrator
 - ix. Administering an employer's 401k Plan
 - x. Administering an employer's 457 Plan
 - xi. Distributing professional resumes of individuals appointed to public commissions
 - xii. Responding to requests for information from mortgage lenders
 - xiii. Etc.
- B. As discussed during the hearing, in today's internet age the idea of privacy is an illusion. This bill cannot ensure the protection of any individual. Employers should be encouraged to provide training to their employees who may be at risk so those individuals can learn how to protect their identities.
- C. As currently written, the Bill would forbid Alaskan Cities, Boroughs and

Municipalities from releasing the home address of a person who is eligible and applies for confidentiality **even if the person's name was not also displayed**. (See February 23, 2009 e-mail from Erick Johnson.) In other words, the **property** would have to disappear from any public website such as an assessor's website. The MOA strongly requests that the Bill be amended to prohibit the release of the home address or telephone number of a person who is eligible and applies for confidentiality **along with** the person's **name**.

This is an extremely important point. If the Bill is amended as described, Alaskan Cities, Boroughs and Municipalities could still publish the tax records, property assessment, location, etc., but do so under a pseudo name. This is substantially superior to removing the records entirely, yet doesn't impose additional risk to the employee.

- D. A **legal review** must be performed to ensure the Bill does not inadvertently violate the law. The review must, at a minimum, evaluate the following:
- c. AS 40.25.110-120
 - d. *City of Kenai v. Kenai Peninsula Newspapers, Inc.* 642 P.2d 1316, 1323
 - e. *Jones v. Jennings*, 788 P.2d 732, 738
 - f. *Gwich'in Steering Committee v. State, Office of the Governor* 10 P.3d 572, 578
 - g. *Hilbers v. Municipality Of Anchorage*, 611 P.2d 31
 - h. *Falcon v. Public Offices Commission*, 570 P.2d 469, 479
 - i. AS 40.17.010-110
 - j. AS 40.17.030(a)(8)
 - k. *State v. Chryst*, 793 P.2d 538
 - l. *Alaska Wildlife Alliance v. Rue*, 948 P.2d 976, 980
 - m. *McKenzie v. Wales Township*, 635 N.W.2d 335, 337-339 (Mich. App. 2001)
 - n. *Patterson v. State* 985 P.2d 1007
 - o. *King County v. Sheehan*, 57 P.3d 307 (Wash. Ct. App. 2002)
- E. To ensure applicants who desire anonymity are truly in need of anonymity, we encourage the following:
- p. The Bill should require applicants provide **proof** of their status (pay stub, etc.).
 - q. The Bill should require applicants to **currently be employed** in a position that might place themselves or their families at risk. This would preclude an individual who briefly worked in a qualifying job out-of-state decades ago from applying not because of any true risk but rather simply because he or she desired privacy.
 - r. The Bill should require applicants to resubmit new forms **annually** to ensure only those who truly require anonymity are included. This is different than the Texan form supplied during the hearing, which restricted information until the applicant rescinded his or her request in writing.
- F. Cities, Boroughs and Municipalities should have the opportunity to weigh in on the form that will be used by applicants.
- G. To minimize the administrative burden on Cities, Boroughs and Municipalities, the State should be required to distribute an electronic list annually. Cities, Boroughs and Municipalities should only be required to **update their records annually**. As currently written, the Bill requires Cities, Boroughs and Municipalities to always maintain their databases against a live list that constantly changes. This is administratively impossible.

- H. The Bill should hold Cities, Boroughs and Municipalities harmless if they make reasonable efforts to comply but inadvertently release the name or phone number of an individual who has applied for and is eligible for confidentiality.

Thank you for the opportunity to testify.

Sincerely,

Sharon Weddleton, CFO
Municipality of Anchorage
weddletons@mun.org

ALASKA STATE LEGISLATURE HOUSE JUDICIARY COMMITTEE

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Representative Nancy Dahlstrom,
Vice-Chairman

Representative John Coghill

Representative Bob Lynn

Representative Carl Gatto

Representative Max Gruenberg

Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801

Sponsor Statement HB 136

“An Act limiting the release of certain information concerning certain public employees or officials”

House Bill 136 will provide a mechanism for public employees and public officials to maintain the confidentiality of their personal information, which is contained in public records. The need for this bill was brought to our attention after the personal information of police officers was discovered in a methamphetamine lab raid in Fairbanks.

House Bill 136 would allow judges, police officers, employees of the Department of Corrections, elected public officials, prosecuting attorneys, and the spouses and minor children of those officials to fill out a form that would prevent their home addresses and telephone numbers from being disseminated to the public. Furthermore, the names of those officers, officials, and their family members would be removed from an assessor's database.

Alaska deserves to have the finest public safety officers and government officials. HB136 will allow those who serve their fellow citizens the peace of mind to do so knowing their families at home will not become targets of intimidation or attack.

Library

WORK DRAFT

WORK DRAFT

WORK DRAFT

26-LS0574\E
Luckhaupt
3/5/09

CS FOR HOUSE BILL NO. 136()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act limiting the release of certain information concerning certain public employees**
2 **or officials."**

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

4 *** Section 1. AS 39.50.050(c) is amended to read:**

5 (c) Reports filed under this chapter shall be kept on file for at least six years
6 and are public records except that a report received from a member of a state
7 board or commission whose only compensation as a member of that board or
8 commission is per diem and travel expenses under AS 39.20.180 is not a public
9 record.

10 *** Sec. 2. AS 40.25 is amended by adding a new section to read:**

11 **Sec. 40.25.160. Limitation on disclosure of information in certain public**
12 **records. (a) A public agency may not release the portions of a public record that**
13 **include the home address or telephone number of a person who is eligible for**
14 **confidentiality under (b) of this section and has applied for confidentiality as provided**

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in (c) of this section. If a public record, such as an assessor's database, is compiled or annotated by physical address or other identifying characteristic, then the name of a person who is eligible for confidentiality under (b) of this section and has applied for confidentiality as provided in (c) of this section, may not be disclosed.

(b) The following persons may request that personal information contained in the records of a public agency be kept confidential:

- (1) a police officer;
- (2) a correctional officer or a municipal correctional officer;
- (3) a parole officer.

(c) The Department of Administration, in consultation with other departments and after notice to municipalities, shall develop a form that a person may use to apply for confidentiality under this section.

(d) In this section,

- (1) "correctional officer" has the meaning given in AS 18.65.290;
- (2) "municipal correctional officer" has the meaning given in AS 18.65.290;
- (3) "parole officer" has the meaning given in AS 18.65.290;
- (4) "police officer" has the meaning given in AS 18.65.290;
- (5) "public agency" does not include the state recorder's office in the Department of Natural Resources;
- (6) "public record" does not include records maintained by the state recorder's office in the Department of Natural Resources.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB136 (STA)
() Publish Date: _____

Identifier (file name): HB136CS(STA)-DNR-SSD-02-27-09 Dept. Affected: Natural Resources
Title: Public Records Exceptions RDU: Resource Development
Component: Recorders/UCC Section
Sponsor: House Judiciary Committee
Requester: H STA Component Number: 802

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES							
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	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 Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)
There is no anticipated fiscal impact to the Department.

Prepared by: Vicky Backus, State Recorder
Division: Support Services, Recorders/UCC Section
Approved by: Tom Irwin, Commissioner
Natural Resources

Phone 907-269-8882
Date/Time February 27, 2009
Date February 27, 2009

L

HB 136 Testimony

On behalf of PSEA I wish to thank Representative Ramras for introducing HB 136 and working for its passage. HB 136 provides a substantial layer of safety and peace of mind for those making it possible for Alaskans to be and feel safe in their homes and society. Across the nation police officers and their families have fallen victim to retaliatory strikes from criminals previously arrested and prosecuted.

To date, there are no known instances of such violence acted against police officers and/or their families in Alaska; but, this should never be used to justify inaction. In time we will become all too familiar with this trend if we fail to act to pre-empt these attacks. While I could review details of past lower 48 incidents, I wish to focus on personal experience and knowledge while working as an Alaska State Trooper undercover drug investigator in the Mat-Su Valley.

I have served as an Alaska State Trooper for over 18 years and spent 2.5 years investigating drug crimes on the Mat-Su Drug Task Force. While working as a patrol Trooper I took numerous offenders into custody. It was not uncommon to be subjected to repeated and graphic threats of violence against me and my family – particularly my wife. While such threats can be unnerving they pale in comparison to my experience while working on the Mat-Su Drug Task Force.

An investigation of a marijuana grower uncovered an entire ring of illegal drug producers and distributors. What started as a small investigation soon ballooned into a project involving every investigator on the Task Force. Many properties were identified and seized as the investigation culminated. During the searches numerous notes, photos, lists, and information were uncovered revealing sophistication and access to personal information available to these criminals. Found, were lists of investigator's private information including: license plate numbers of privately owned vehicles, office and home telephone numbers, names of spouses and family members, work places of spouses, home addresses and directions, notes describing spouse and family daily activities; and, photographs of private vehicles, residences, and spouses in the community. Naturally, this was very unsettling to every investigator since such information had been gathered without their knowledge. Thoughts of what could have happened had this group of criminals not been stopped were extremely upsetting. It is sure that motivations for gathering and archiving this information were not for purposes beneficial to the investigators, their families, or society.

Those who risk their lives protecting our citizens and insuring relaxed freedom of movement should be able to count on laws that provide some reciprocation. While HB 136 cannot guarantee absolute anonymity and security, it helps remove the ease of its gathering. Please display your support for those who risk all for the safety of you and your families by supporting HB 136. Thank you.

Rob Cox
PSEA President

26-LS0574R
Luckhaupt
2/25/09

CS FOR HOUSE BILL NO. 136()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act limiting the release of certain information concerning certain public employees**
2 **or officials."**

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

4 *** Section 1.** AS 40.25 is amended by adding a new section to read:

5 **Sec. 40.25.160. Limitation on disclosure of information in certain public**
6 **records.** (a) A public agency may not release the portions of a public record that
7 include the home address or telephone number of a person who is eligible for
8 confidentiality under (b) of this section and has applied for confidentiality as provided
9 in (c) of this section. If a public record, such as an assessor's database, is compiled or
10 annotated by physical address or other identifying characteristic, then the name of a
11 person who is eligible for confidentiality under (b) of this section and has applied for
12 confidentiality as provided in (c) of this section, may not be disclosed.

13 (b) The following persons may request that personal information contained in
14 the records of a public agency be kept confidential:

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- (1) a justice or judge;
- (2) a peace officer;
- (3) an employee of the Department of Corrections or a municipal jail employee;
- (4) an elected public official;
- (5) a municipal or state prosecuting attorney;
- (6) the spouse or minor child of a person described (1) - (5) of this subsection.

(c) The Department of Administration, in consultation with other departments and after notice to municipalities, shall develop a form that a person may use to apply for confidentiality under this section.

(d) In this section, "public agency" does not include the state recorder's office in the Department of Natural Resources, and "public record" does not include records maintained by that office.

REQUEST FOR CONFIDENTIALITY

Date
Phone (area code and number)

Appraisal district name
Address

Confidentiality of home addresses of a peace officer, a county jailer, a security officer, an employee of Texas Department of Criminal Justice and a victim of family violence. Under Section 25.025, Tax Code, if you are a peace officer, county jailer, commissioned security officer, employee of the Texas Department of Criminal Justice, or a victim of family violence, you may request that information in the appraisal records identifying your home address be restricted from public access. By completing and submitting this form to the appraisal district, you are requesting the confidentiality of information identifying your home address. If you want to rescind this confidentiality request, you must do so in writing to the appraisal district.

Step 1: Name and Address To be Held Confidential	Name
	Home address (number and street)
	City, town or post office, state, ZIP code

Step 2: Qualification	<input type="checkbox"/> Commissioned Security Officer (as defined by § 1702.002, Occupations Code)	<input type="checkbox"/> County or Municipal Attorney (current or former, whose jurisdiction includes any criminal law or child protective services matter)
	<input type="checkbox"/> Peace Officer (current or former), (as defined by Article 2.12, Code of Criminal Procedure)	<input type="checkbox"/> County Jailer (as defined by § 1701.001, Occupations Code)
	<input type="checkbox"/> Employee of District Attorney (current or former)	<input type="checkbox"/> Employee, Texas Dept. of Criminal Justice
	<input type="checkbox"/> Employee of Criminal District Attorney (current or former)	<input type="checkbox"/> Victim of Family Violence (as defined by § 71.004, Family Code)

Step 3: Property Description	Property Parcel Identification No.	Legal Description of Property

Step 4: Property Location Address	Name of Owner (to be held confidential if property location is home address of owner making an election under Step 2)
	Property Location (number and street)
	City, town or post office, state, ZIP code

For Appraisal District Use Only	
--	--

I certify the information in this document and any information attached is true and correct to the best of my knowledge and belief.

Signature of Person Requesting Confidentiality

sign here _____

If you make a false statement on this form, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

By filing this document with the appraisal district, information in the appraisal records that identifies your home address will be restricted from public access until you rescind the request in writing. However, pursuant to Section 25.025, Tax Code, the information will be available for the official use of the appraisal district, the state, the comptroller, taxing units and political subdivisions of this state.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 136
() Publish Date: _____

Identifier (file name): HB136-DPS-DET-02-23-09 Public Safety
Title "An act limiting the release of information concerning ... RDU Alaska State Troopers
certain public employees or officials." Component AST Detachments
Sponsor Judiciary
Requester House State Affairs Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0

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

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Full-time							
Part-time							
Temporary							

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

This bill amends AS 40.25.160 by adding a new section which states that a public agency may not release certain information of qualifying public employees.

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

Prepared by: Lt. Rodney Dial
Division: Alaska State Troopers
Approved by: Joseph Masters, Commissioner
Department of Public Safety

Phone 907-247-4480
Date/Time 2/23/09 12:12 PM
Date _____

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB136
 () Publish Date: _____

Identifier (file name): HB136-DNR-SSD-02-23-09 Dept. Affected: Natural Resources
 Title Public records exceptions RDU Resource Development
 Component Recorders/UCC Section
 Sponsor House Judiciary Committee
 Requester H STA Component Number 802

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	***		***		***		***	

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 Interagency Receipts								
TOTAL	***		***		***		***	

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

*** Indeterminate.

The Recorders Office is presently unable to predict implementation cost with any certainty. HB 136 does not wholly define the types of information to be blocked from the public record (physical address or "other identifying characteristic") and appears to contradict AS 40.17 which directs the Recorders Office to accept, preserve, and make available to the public, the permanent public record of the state of Alaska.

Prepared by: Vicky Backus, State Recorder
 Division Support Services, Recorders/UCC Section
 Approved by: Tom Irwin, Commissioner
Natural Resources

Phone 907-269-8882
 Date/Time February 23, 2009
 Date February 23, 2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

BILL NO. HB136

ANALYSIS CONTINUATION

AS 40.17.035 states the recorder may not consider the contents of a document when determining recordability. Recording is a free and voluntary act by the public to place real estate and other miscellaneous instruments in to the public record.

If the Recorders Office were required to implement this legislation, a list of qualifying individuals who have applied for and received approval for confidentiality would have to be established, monitored on a statewide basis, and computerized to ensure appropriate documents were located. We would require ALL possible name variations of the qualified individuals and the specific information required to be withheld; a computer program would have to be written that would flag any name entered into the Recorder's data base of qualifying exempt individuals. The Recorder would then have to review the documents' content to ensure no prohibited information was included (in documents prepared by someone else). Finally, if prohibited information was found on the document it would have to be redacted in order to withhold it from public viewing. (When redaction software purchasing was considered for HB 65 - Breach of Security Involving Personal Information - which passed during the 25th Legislature, the initial estimate to implement was over \$1.6 million)

Additional disc storage space, perhaps up to 1 - 2 terabytes, would be required for dual systems in order to preserve the public record intact.

Public Safety Employees Association, Inc.
“Representing Alaska’s Finest”

Public Safety Employees Association
Position Paper – Supporting HB 136

The Public Safety Employees Association supports passage of HB 136 to protect peace officers and their families from possible retribution for performing the tasks associated with protecting the public. HB 136 will exempt from disclosure personal information such as physical address and telephone numbers of five classifications of employees and elected officials. PSEA limits our comments to peace officers. PSEA supports including a peace officer and the spouse or minor child of a peace officer to the list eligible for confidentiality provisions contained in the bill.

A public agency may not release the portions of a public record that include the home address or telephone number of a peace officer who applies for confidentiality under HB 136. The bill requires that anyone who requests to remove personally identifiable information must submit a form requesting to be removed.

Given the nature of the work performed by peace officers and the temperament of some offenders, protecting the personal life and family of peace officers as much as possible is sensible. Peace officers are charged with the responsibility of protecting our homes, so exposing officers to unfair liability when a wrongdoer finds an officer’s address in a public record is imprudent.

Access to this personal information will empower some people to use the information as a way to possibly intimidate or harass an officer or a member of the officer’s family. Inhibiting an officer’s ability to enforce the law could hurt law enforcement in general. Harassing comments by a lawbreaker suggesting knowledge of the officer’s home, the officer’s wife or the officer’s children would be a disturbing revelation to the officer.

HB 136 provides some degree of confidentiality for personal information existing in some public records. PSEA appreciates the Judiciary Committee for introducing the bill and recommends its passage.

John Cyr
Executive Director
2/23/09

HB 136 Testimony

I wish to thank PSEA and Representative Jay Ramras, House Judiciary Committee Chairman, for working together to introduce HB 136. This bill is not only important to Police Officers but anyone in public service who has arrested someone or secured them in jail for committing a crime against society. Correctional Officers, Judges, District Attorney's and Probation Officers are all at risk of retaliation against them and/or their families.

This concern is not isolated to Fairbanks, or even Alaska Law Enforcement – it is a national issue. In the lower 48 states, horrible acts of violence have been committed against Police Officers who were ambushed for retaliatory reasons while leaving their residence or returning home. Fortunately, there are no known instances of such violence being acted against police officers in Alaska; but, like all trends, it is only a matter of time unless we act to pre-empt these attacks by providing laws and methods to enhance the safety and security of our police officers and their families.

I have been in Law Enforcement in the state of Alaska for approximately 18 years. While working patrol as a State Trooper, I have received several death threats, one of which came directly into my home via the telephone. Consequently, I felt the need to change my phone number. But, this measure alone cannot provide any real degree of security. I am currently working an undercover assignment and my unit has investigated, arrested, charged, and prosecuted many serious offenders. Most cases have concluded with the offender receiving significant penalties and jail sentences. Recently, I learned that the criminals we investigate and arrest have discovered simple and easy means of obtaining police officers' personal information (i.e. the types of vehicles we drive, family vehicle license plate numbers, home addresses, home telephone numbers, spouses' workplaces, etc.) with the intent of causing harm to us and/or our families.

As undercover officers, we go to great lengths to conceal information about our identities, our office location, the vehicles we drive, and, most importantly, where we live. It is an easy task to learn our names due to court testimony and records in which we are required to state or list our names publically in the presence of defendants, witnesses, and jurors. Armed with a name only, any person with computer access and an internet connection can connect to a borough web site property data base and search the property records. By simply entering a name the searcher will find a host of information revealing a property description, location, address, structure information, and sometimes photos taken by borough appraisers. Searchers are also able to print maps with driving directions to a property. This is extremely disconcerting when I consider the vulnerability it creates for my wife and children.

Such information can also be accessed through DMV where for a few dollars one can request and receive a vehicle license plate search that will reveal a home address as well.

HB 136 is good for all Alaskans because it enhances police officers' ability to effectively perform their duties without undue concern for the safety of their families and self. Please show your support for those who risk all for the safety of you and your families by passing HB 136. Thank you.

Scott Johnson



ALASKA CORRECTIONAL OFFICERS ASSOCIATION

"Walking Alaska's Toughest Beat"

February 20, 2009

Representative Jay Ramras
State of Alaska
State Capitol, Room 412
Juneau, Alaska 99801-1182

RE: House Bill 136: PUBLIC RECORDS EXCEPTIONS

Dear Representative Ramras,

We would like to pass on our sincere appreciation for House Bill 136, an act limiting the release of certain information concerning certain public employees, specifically Correctional Officers. The Alaska Correctional Officers Association strongly supports this Bill. Inmates can use public access to obtain information on Correctional Officers. It not only jeopardizes the safety and security of the men and women who work behind bars, but their families as well.

This Legislation will correct a serious concern for, not only Correctional Officers, but all public safety employees, including fire and police. We owe our Officers our full and unconditional support. There is no reason why any public safety Officer's personal information should be available to anyone, especially an inmate. Your bill corrects this. If there is any way we can assist, please contact me at (907) 646-2262 or brad@acoa.us. We will help in any way we can.

Again, thank you.

On behalf of the members of Alaska Correctional Officers Association,

Brad Wilson
Business Manager

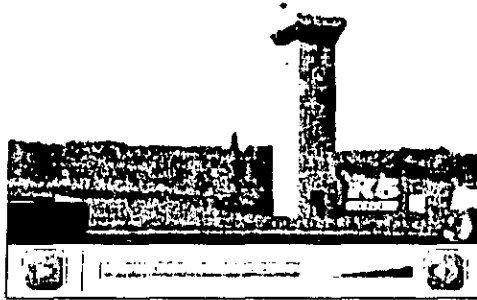
P.O. Box 210290 • Anchorage, Alaska 99521
Phone: 1 (907) 646-2262 • Fax: 1 (907) 646-2286
Website: www.acoa.us

Comments | Recommended

Prisoners prying into DOC officers' lives

06:34 PM PST on Wednesday, February 18, 2009

By ROB PIERCY / KING 5 News



Video: Prisoners prying into DOC officers' lives

Larger screen -- E-mail this clip

MONROE, Wash. - Prisoners are prying into the lives of corrections officers and using taxpayer money to do it.

It's terrifying for families and a huge burden on the Department of Corrections. Now there's a push in the Legislature to make it stop.

Janet, the wife of a corrections officer, is scared. She doesn't want KING 5 News to use her last name. Last weekend, a notice from the DOC arrived in the mail.

Joseph Simmons, a prisoner at the Monroe Correctional Complex, wants information about her husband and every other guard who works there.

"Date of birth, gender, race, date of hire, current employment job title, annual pay, pay rate, height and weight," she said.

Janet was frightened to learn that since they are government employees, a lot of that information is a matter of public record, available to convicted pedophiles, rapists and even murderers.

"What I don't understand is why an inmate is allowed to jeopardize the safety and security of hundreds of families and use the taxpayers dollars to do it," Janet said.

By no means is this a unique case. In 2007, the DOC printed out 350,000 pages of documents for prisoners. Total cost to taxpayers? More than a quarter million dollars.

"So clearly there's a group of folks who are involved in the recreational use of the public disclosure statute for the purposes of harassing and annoying the department and staff members," said John Scott Blonien, assistant secretary at the DOC.

One inmate has filed 800 requests. It's become a full-time job for a clerk who does nothing else but process that one prisoner's paperwork. It's why the Legislature is now considering a law that would limit inmate access to public records.

Janet says it would save others the fear that has gripped her family.

"I'm looking into getting a security system," Janet said. "I'm looking into several different options, because I have two small children."

Janet could join others in paying an attorney to fight the release of the records.

But there's no guarantee the records would be withheld.



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3004

Rep. Nancy Dahlstrom
Vice-Chairman
Room 409
(907) 465-3783

Rep. John Coghill
Room 214
(907) 465-3719

Rep. Bob Lynn
Room 104
(907) 465-4931

Rep. Carl Gatto
Room 108
(907) 465-3743

Rep. Max Gruenberg
Room 110
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: February 17, 2009

To: Representative Bob Lynn
Chairman House State Affairs Committee

From: Representative Jay Ramras
Chairman House Judiciary Committee

Re: Hearing Request for HB 136 "An Act limiting the release
of certain information concerning certain public employees or officials."

Please consider this memo as a request for the House State Affairs Committee
to hear HB 136. Attached please find the following documents:

- Sponsor Statement
- HB136 (26-LS0574\A)
- Sample confidentiality form from Texas