

HB

343

<TARGET><BILL>HB 343</BILL><SUBJECT>HB
343</SUBJECT><COMM>HHSS27</COMM></TARGET>

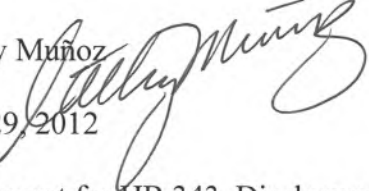


REPRESENTATIVE CATHY MUÑOZ

MEMORANDUM

To: Rep. Wes Keller, Chairman
House Health and Social Services Committee

Cc: Janet Ogan, Aide
House Health and Social Services Committee

From: Rep. Cathy Muñoz 

Date: February 29, 2012

Re: Hearing request for HB 343, Disclosure of Children's Records

Please schedule House Bill 343, relating to the disclosure of children's, at your earliest convenience.

Attached to this memo please find:

- HB 343
- A sponsor statement
- A sectional analysis
- Letters of support from:
 - The Division of Juvenile Justice
 - The Office of Children's Services
- A flow chart explaining the current disclosure law
- A flow chart explaining the proposed disclosure law

The contact for HB 343 is Christopher Clark, 465-4712.

Thank you.



REPRESENTATIVE CATHY MUÑOZ

SPONSOR STATEMENT HOUSE BILL 343

"An Act relating to disclosure of records of the Department of Health and Social Services pertaining to children in certain circumstances; and providing for an effective date."

House Bill 343 has been introduced at the request of the Alaska Department of Health and Social Services to:

- 1) Assure that the Division of Juvenile Justice and the Office of Children's Services may exchange information to provide necessary services to children without undue delay.
- 2) Allow individuals with a legitimate interest – such as former clients who once were children in state custody, their parents, or guardians – to receive information about delinquency history and health records from the Division of Juvenile Justice to help them apply for jobs, obtain student loans, or get health care.
- 3) Clarifies current law regarding public disclosure of juvenile information which state officials say is cumbersome and difficult to interpret. The legislation strives to preserve legislative intent of balancing public safety through disclosing appropriate information on serious offenders with protecting the confidentiality of offenders who pose less risk to society.



REPRESENTATIVE CATHY MUÑOZ

MEMORANDUM

To: Rep. Wes Keller, Chairman
House Health and Social Services Committee

From: Christopher Clark, Aide
Rep. Cathy Muñoz

Date: February 28, 2012

Re: Sectional analysis of HB 343, relating to the disclosure of children's records

Kindly note that a sectional analysis of a bill or resolution should not be considered an authoritative interpretation of the measure itself. The legislation itself is the best statement of its contents.

Section 1. Amends AS 47.10.093(b), the state law on the disclosure of agency records that relates to children in need of aid, by adding two new subsections to allow the state Office of Children's Services to:

- Disclose confidential information regarding a child's case to a licensed child placement agency as needed to provide services for that child. See subsection (14), page 2, lines 30-31.
- Exchange current and historical case management records with the state Division of Juvenile Justice and agencies in other jurisdictions that are responsible for delinquent minors. See subsection (15), page 3, lines 1-4.

Section 2. Amends AS 47.12.310(b), the state law on agency records that relates to delinquent minors, by adding two new subsections to allow the state Division of Juvenile Justice to:

- Disclose confidential information regarding a case of a minor, who is subject to the jurisdiction of a court, to a licensed child placement agency as needed to provide services for that child. See subsection (L), page 4, lines 14-16.
- Exchange current and historical case management records with the state Office of Children's Services and agencies in other jurisdictions that are responsible for child protection services. See subsection (M), page 34, lines 17-21.

Section 3. Amends AS 47.12.310(f), the state law on agency records that relates to delinquent minors, by allowing the Division of Juvenile Justice to adopt regulations delineating what information it may release to someone who has a legitimate interest in a minor who is subject to the jurisdiction of the state Department of Health and Social Services. The provision also allows the division to set standards for identifying a legitimate interest in such records. See page 4, lines 26-31, and page 5, line 1.

Current law does not allow the division to release certain information about minors while they were under the jurisdiction of a court. A problem arises when former clients ask the agency for records about their contacts with the department while they were minors. The existing law would allow the agency to release information only if a minor's charges had been adjusted or if the minor had been placed on informal probation. Anything related to adjudications would not be available for release. This restriction can hurt those who need records for legitimate reasons such as applying for a job, obtaining student loans, or getting health care. This proposal is intended to help them as well as parents, guardians, or others who have a legitimate interest in this.

Section 4. Repeals and reenacts AS 47.12.315, the statute on public disclosure of information in agency records relating to certain minors. See page 5, lines 2-31, and page 6, lines 1-18.

This allows the Department of Health and Social Services to disclose information to the public, upon request, concerning a minor who is subject to the law on delinquent minors, AS 47.12. A child is someone who is at least 13 years of age at the time of committing a felony offense such as murder, manslaughter, assault, kidnapping, and other crimes as described under AS 11.41 as well as arson in the first or second degree, burglary in the first degree, distribution of child pornography, promoting prostitution in the first degree, misconduct involving a controlled substance in the first, second, or third degrees involving distribution or possession with intent to deliver, or misconduct involving weapons in the first through fifth degrees.

Current law allows public disclosure on informal adjustments for specified crimes or offenders who were previously adjudicated on any felony and are petitioned again for another felony.

This bill allows public disclosure if the Department of Health and Social Services has filed a petition seeking adjudication of a minor, a court has arraigned the minor on the petition, and the court has entered a finding that probable cause exists that the minor committed a delinquent act.

This new section will ensure that a juvenile's arrest on a charge that was determined by a judge to lack legal sufficiency will not be subject to public disclosure.

Other subsections describe what may be disclosed and prohibit releasing names of victims and out-of-home care providers. They allow the agency to disclose information electronically recovered from a computer database and prohibit the release of records after five years from the date the state is first required or authorized to make a disclosure. They would allow the department to petition a court for an order prohibiting disclosure if the court finds the crime was an isolated incident and the minor does not present any further danger to the public or if the victim agrees disclosure is inappropriate.

The final subsection defines out-of-home provider as someone who is other than a child's legal parents and with whom that minor is in state custody. This includes a foster parent, a child's relative, and a person who seeks to adopt or become a guardian of the minor.

Section 5. Amends uncodified law by adding a new section to allow the Department of Health and Social Services to adopt regulations as necessary to implement the changes made by this legislation.

Section 6. Provides for an immediate effective date for section 5.

Section 7. Provides an effective date for sections 1 through 4 of July 1, 2012.

STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF JUVENILE JUSTICE

Sean Parnell, GOVERNOR

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February 24, 2012

Representative Cathy Muñoz
Alaska State Capitol Room 403
Juneau AK, 99801

Dear Representative Muñoz:

Thank you for your sponsorship of House Bill 343. The Division of Juvenile Justice fully supports this bill.

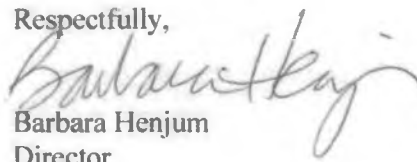
This bill makes several improvements to Alaska law regarding sharing and disclosure of juvenile information. Sections 1 and 2 clarify the authority of the Office of Children's Services (OCS) and the Division of Juvenile Justice (DJJ) to share records with each other to assist clients and to protect the public. Since 1999, when the Department of Health and Social Services split the Division of Family and Youth Services into two divisions (OCS and DJJ), there has been inconsistent understanding of the ability of these two agencies to share case information. The bill would amend AS 47.10.093 and AS 47.12.310 by stating clearly the legal authority for the sister divisions to provide necessary care and services without undue delay.

This bill will also provide clarification in AS 47.12.310 to allow individuals with a legitimate interest (e.g. former clients, parents, guardians) to receive information from the Division of Juvenile Justice to facilitate employment, health care, and other needs. The Division of Juvenile Justice routinely receives inquiries from former clients seeking information about their delinquency history, but statute has not been clear about our ability to provide this information to them. The change provided in the bill would allow the Division to develop regulations that provide this clarity. The changes proposed in Section 3 of the bill also will ensure that the state is in alignment with the federal HIPAA law. These changes are important to make because of the increasing frequency with which agencies and employers use barrier crimes and background checks to determine the fitness of candidates for employment and services, and the increased expectation that individuals have access to their own health care information.

Section 4 of the bill makes changes to AS 47.12.315, which allows public access to information regarding certain juvenile offenders. The original intention of this 1997 law was to increase the availability of some types of juvenile information to the general public. However, the practical application of this law has proved to be challenging. Division staff have found the law difficult to interpret and convey to juvenile offenders and the public. The changes proposed will expedite the ability of division staff to determine whether information on a particular juvenile or offense can be disclosed. The revision to the public disclosure law preserves the legislative intent of balancing public safety and confidentiality of juvenile records by disclosing appropriate information regarding more serious offenders while preserving confidentiality of offenders posing less risk to the community.

Thank you for your leadership on these issues. The Division of Juvenile Justice looks forward to providing research and testimony in support of House Bill 343.

Respectfully,

A handwritten signature in cursive script, appearing to read "Barbara Henjum", is written over the typed name.

Barbara Henjum
Director

STATE OF ALASKA

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

SEAN PARNELL, GOVERNOR

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February 27, 2012

Representative Cathy Munoz
Alaska State Capitol
Room 403
Juneau, AK 99801

Dear Representative Munoz:

Thank you for sponsoring House Bill 343 Disclosure of Children's Records.

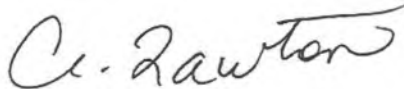
The Office of Children's Services supports this bill because it will allow improvements in our ability to exchange necessary, important information with our sister agency, the Division of Juvenile Justice. While throughout most of Alaska it is understood that our agencies can share information regarding our clients to ensure efficient use of resources and the best approaches to working with their families, occasional misunderstanding about this relationship among Departmental staff, attorneys, families, and judges can lead to confusion, withholding of information, and even court action to suppress sharing of information when actually the exchange can lead to better case management and more appropriate services for the child.

Many national organizations, including the Child Welfare League of America, have noted the benefits and importance of improved coordination between juvenile justice and child protection agencies.

The bill also includes provisions recommended by our Office that will facilitate better information sharing between child protection and juvenile justice agencies and Alaska's child placement agencies. These agencies license foster homes and place children in them. Both Juvenile Justice and Children's Services rely on child placement agencies to provide services for youth under our jurisdiction; better coordination with these agencies will only improve our ability to serve them.

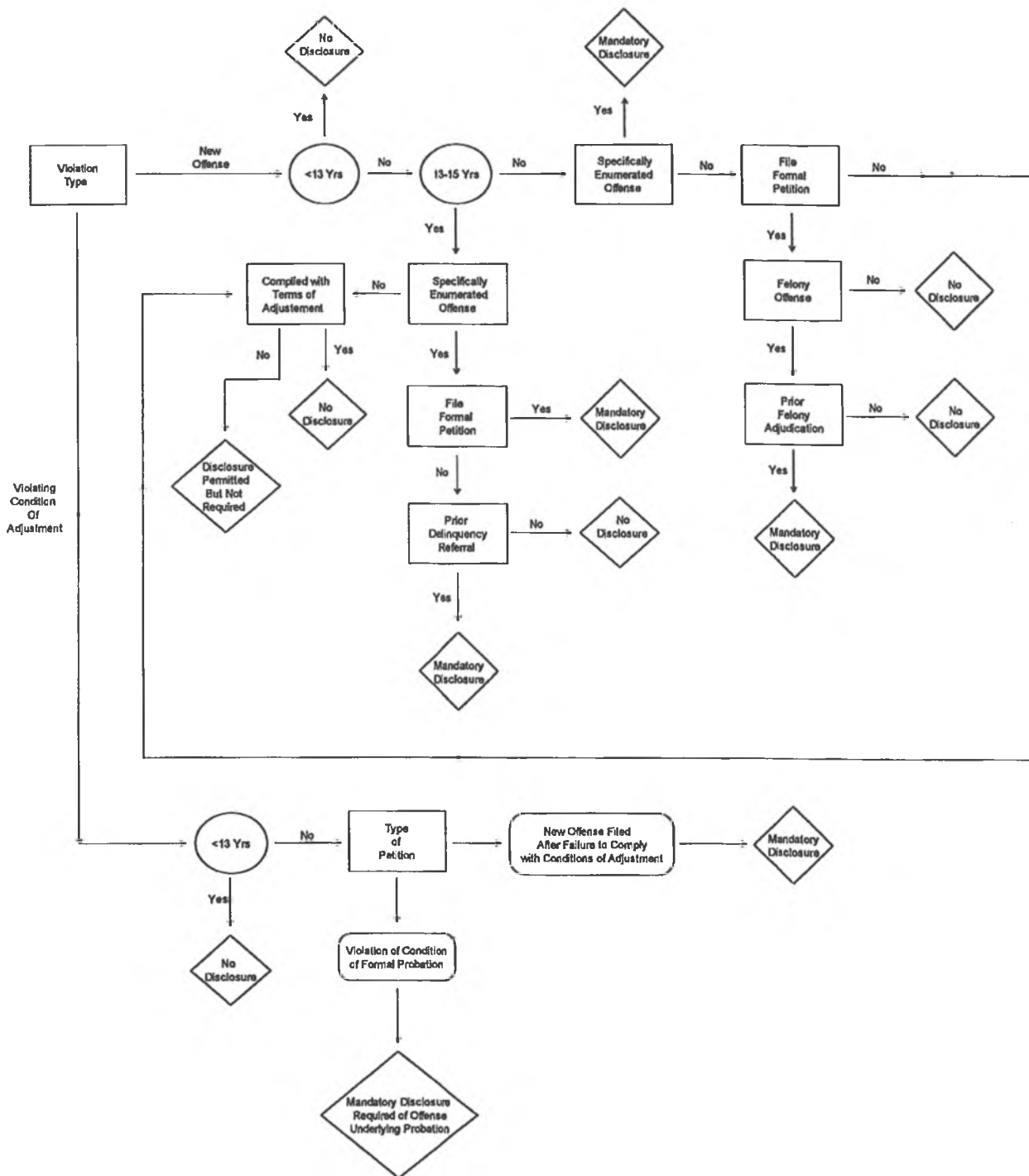
Please contact me if I can answer any questions or be of other assistance.

Sincerely,

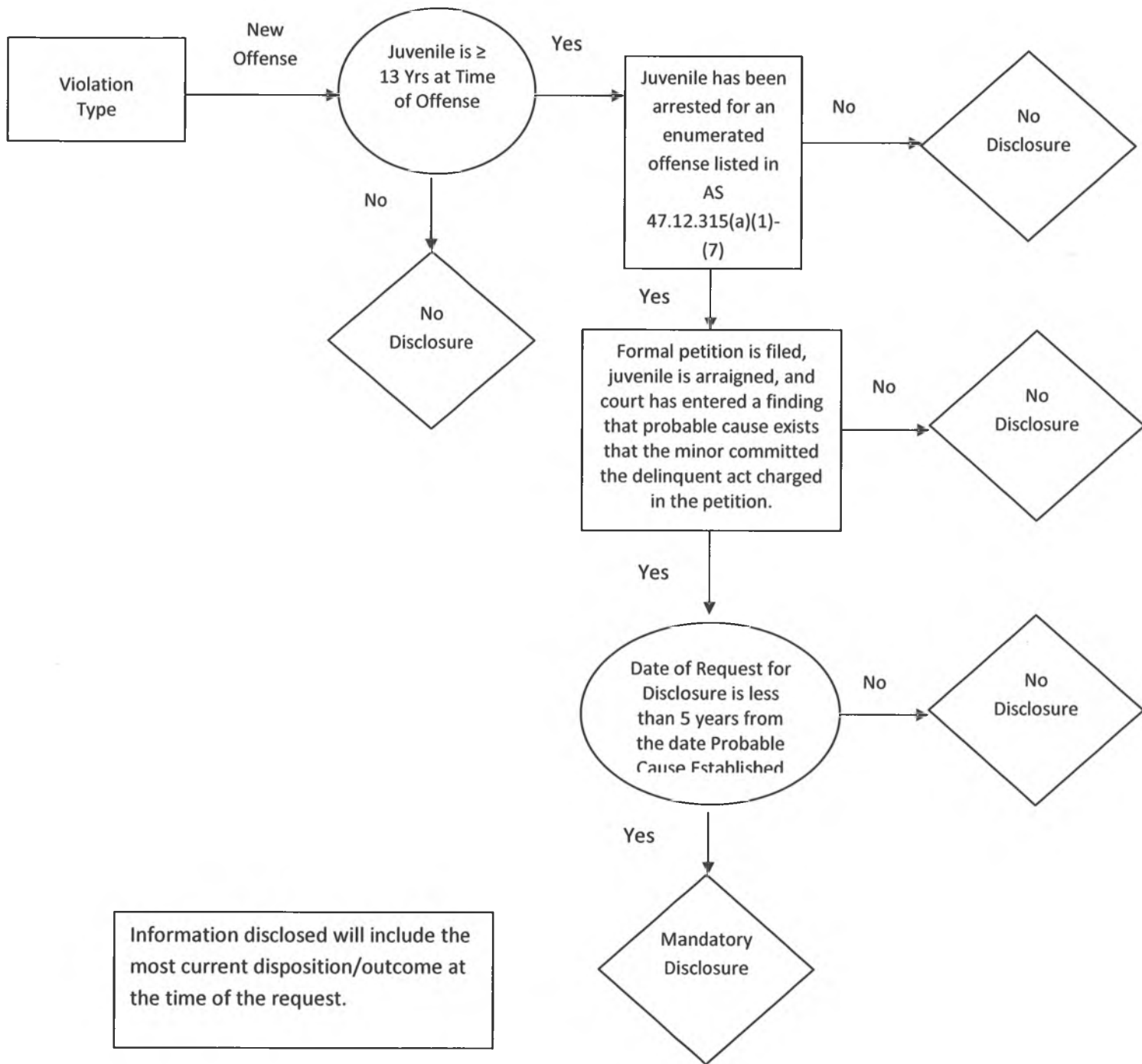


Christy Lawton
Director

CURRENT DISCLOSURE LAW



PROPOSED JUVENILE DISCLOSURE LAW – 2/6/2012



HOUSE COMMITTEE REPORT

3. 12

(7)
Date Referred to Committee: February 22, 2012

FURTHER REFERRALS: Judiciary

Date of Committee Action: March 15, 2012

The HEALTH AND SOCIAL SERVICES Committee considered:

HB 343

HOUSE BILL NO. 343

"An Act relating to disclosure of records of the Department of Health and Social Services pertaining to children in certain circumstances; and providing for an effective date."

HB 343-DISCLOSURE OF CHILDREN'S RECORDS

Recommends it be replaced with [] HCS or [] CS for HB 343 (HSS)
For Senate Bills with new title: [] Technical Title [] New Title: HCR [] Same Title [] New Title

- [] attach amendments
- [] add new referral to _____ Committee
- [] Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- DHS
- LWF
- LAW
- LEG
- MVA
- DNR
- DPS
- REV
- DOT
- UA

NEW FISCAL NOTES				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero
	ADM			<input checked="" type="checkbox"/>
	ADM			<input checked="" type="checkbox"/>
	DHS			<input checked="" type="checkbox"/>

PREVIOUS FISCAL NOTES				
FN#	List by Dept(s):	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
<i>Paul Seaton</i>	Seaton	X			
<i>Robert J. Miller</i>	MILLER	X			
<i>Charles Schuler</i>	Millett			X	
<i>Ben Kerttula</i>	HERRON			X	
	Kerttula	X			
Chair: <i>Wes Ketter</i>	Ketter			X	
Chair:					