

HB

11

<TARGET><BILL>HB 11</BILL><SUBJECT>HB
11</SUBJECT><COMM>SJUD29</COMM></TARGET>

SENATE COMMITTEE REPORT

DATE: 4/10/15

FURTHER: Rules
 DATE TURNED
 IN TO OFFICE: 4/16/15

Judiciary Committee considered CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 11(JUD) am
 HB 11-NO INTERNET ACCESS TO SOME CRIM. CASES

"An Act restricting the publication of certain records of criminal cases on a publicly available Internet website; and providing for an effective date."

and recommends:

- be replaced with SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- adopt previous SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
ADM			✓	1
ADM			✓	2
AJS			✓	3
LED			✓	4
COR			✓	5
DHS			✓	6
DPS			✓	7

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	COSTELLO			✓	
	MICCICHE	✓			
CHAIR:	COGHOLL	✓			

Alaska State Legislature
House of Representatives
Representative Tammie Wilson

Interim
301 Santa Claus Lane 3B
North Pole, Alaska 99705
Phone - (907) 451-2723

Session
State Capitol Rm 412
Juneau, AK 99801
Phone - (907) 465-4797



Rep.Tammie.Wilson@akleg.gov

Date: April 10, 2015
To: The Honorable Lesil McGuire, Chair
Senate Judiciary Committee
Fr: Representative Tammie Wilson
Re: CSSSHB 11 (JUD) am
Hearing Request

Dear Chair McGuire,

I respectfully request a hearing for CSSSHB 11 (JUD) am in the Senate Judiciary Committee. My staff for this piece of legislation is Barbara Barnes. She can be reached at 907-465-4797.

Sincerely,

A handwritten signature in blue ink that reads "Tammie".

Representative Tammie Wilson

**Alaska State Legislature
House of Representatives
Representative Tammie Wilson**

Interim
301 Santa Claus Lane 3B
North Pole, Alaska 99705
Phone - (907) 451-2723



Session
State Capitol Rm 412
Juneau, AK 99801
Phone - (907) 465-4797

Rep.Tammie.Wilson@akleg.gov

SPONSOR STATEMENT

SSHB 11

*An Act relating to the confidentiality of certain records of criminal cases;
and providing for an effective date.*

"Every person is presumed innocent until proven guilty". HB 11 directs the Alaska Court System to remove from its public internet website records of criminal cases that were acquitted of all charges, by dismissal of all charges, or by acquittal of some charges and dismissal of remaining charges after 60 days have elapsed from the date of acquittal or dismissal of the case.

CourtView, the Alaska Trial Courts online publicly accessible database, provides access for persons seeking information on the status of criminal and civil cases, the nature of criminal charges filed against persons, and the final outcome of litigation. Court View forever shows the arrest and charging documents for persons who were never convicted, allowing society to scrutinize any individual, for any reason, and socially chastise the innocent. In spite of CourtView user warnings, that a charge is not to be considered a conviction, this public posting of a person's name and charges can have dire consequences on the individual's livelihood and inherent liberties. From housing to employment prospects, the innocent are socially judged guilty by the very presence of their names on CourtView regardless of the outcome of the case.

By very definition, a person is not a criminal if acquitted at trial, or if their case is dismissed by the courts. In American jurisprudence, we are considered innocent until proven guilty. HB 11 champions this principle. We ask that Alaskans who have not been found guilty of any wrong doing be given the right to emancipation of social distrust and inherent prejudices.

Alaska State Legislature
House of Representatives
Representative Tammie Wilson

Interim
301 Santa Claus Lane
North Pole, AK 99705
Phone - (907) 451-2806
Fax - (907) 451-2332



Session
State Capitol
Juneau, AK 99801
Phone - (907) 465-4797
Fax - (907) 465-3884

Rep.Tammie.Wilson@legis.state.ak.us

Explanation of Changes
CSSSHB 11(JUD) am

“An Act restricting the publication of certain records of criminal cases on a publicly available Internet website; and providing for an effective date.”

SSHB 11 restricts the publication of certain records of criminal cases on the internet. In comparison, CSSSHB 11(JUD) am clarifies that the publication of certain records of criminal cases is restricted on a publically available internet website.

SSHB 11 describes the restrictions in which the State of Alaska may not publish a court record of a criminal case on the internet. In comparison, CSSSHB 11(JUD) am clarifies the restrictions that the Alaska Court System may not publish a court record of a criminal case on a publicly available website and clarifies that all criminal charges against the defendant in the case have been dismissed and were not dismissed as part of a plea agreement in another criminal case under Rule 11, Alaska Rules of Criminal Procedure.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSSHB 11(JUD)
Fiscal Note Number:	1
(H) Publish Date:	4/2/2015

Identifier: HB011SS(JUD)-DOA-OPA-03-13-15
 Title: NO INTERNET ACCESS TO SOME CRIM. CASES
 Sponsor: WILSON
 Requester: House Judiciary

Department: Department of Administration
 Appropriation: Legal and Advocacy Services
 Allocation: Office of Public Advocacy
 OMB Component Number: 43

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? N/A
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Sponsor Substitute from HB 11.

Prepared By:	Richard Allen, Director	Phone:	(907)269-3504
Division:	Office of Public Advocacy	Date:	03/15/2015 12:30 PM
Approved By:	Sheldon Fisher, Commissioner	Date:	03/13/15
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

If enacted into law as drafted, would require that the Alaska Court System remove from its public accessible website all records in criminal cases that were disposed of by means of acquittal on all charges, dismissal of all charges or acquittal on some charges and dismissal on some charges. Provides an effective date of October 1, 2015.

SSHB11 differs substantially from the first version, HB 11, originally introduced in January 2015. SSHB 11 is narrower in scope and effect, in terms of its reach, than HB 11. SSHB 11 limits public access via the Alaska Court System website to records in criminal cases where the charges against the defendant were disposed of by acquittal, dismissal or a combination of acquittal and dismissal. SSHB 11 seeks to protect the reputational and privacy interest of defendants in criminal cases who were not convicted by restricting public access to the case records via the court system website. That restriction would also apply to agencies and individuals seeking to research those records via the website for legitimate purposes, such as researching witness histories in Child in Need of Aid (CINA) or collaterally related criminal cases.

The bill would affect the reputational interests of criminal case defendants represented by the Office of Public Advocacy (OPA) attorneys. It would not affect the mission or activities of OPA as such and for that reason a zero fiscal note is appropriate.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSSHB 11(JUD)
Fiscal Note Number:	2
(H) Publish Date:	4/2/2015

Identifier: HB011SS(JUD)-DOA-PDA-03-13-15
 Title: NO INTERNET ACCESS TO SOME CRIM. CASES
 Sponsor: WILSON
 Requester: House Judiciary

Department: Department of Administration
 Appropriation: Legal and Advocacy Services
 Allocation: Public Defender Agency
 OMB Component Number: 1631

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Sponsor Substitute from HB 11.

Prepared By: Quinlan Steiner, Director
 Division: Public Defender Agency
 Approved By: Sheldon Fisher, Commissioner
 Agency: Department of Administration

Phone: (907)334-4414
 Date: 03/13/2015 11:00 AM
 Date: 03/13/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

This bill provides that the court may not publish records on the internet related to criminal cases that do not result in conviction.

The Public Defender Agency does not anticipate a financial impact from this legislation. The agency, therefore, submits a zero fiscal note.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSSHB 11(JUD)
Fiscal Note Number:	3
(H) Publish Date:	4/2/2015

Identifier: HB011SS-ACS-TRC-03-05-15
 Title: NO INTERNET ACCESS TO SOME CRIM. CASES
 Sponsor: WILSON
 Requester: House Judiciary Committee

Department: Judiciary
 Appropriation: Alaska Court System
 Allocation: Trial Courts
 OMB Component Number: 768

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2016 Request	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version.

Prepared By:	Nancy Meade, General Counsel	Phone:	(907)463-4736
Division:	Alaska Court System	Date:	03/05/2015 01:00 PM
Approved By:	Nancy Meade for Christine Johnson, Administrative Director	Date:	03/05/15
Agency:	Alaska Court System		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

The Sponsor Substitute for House Bill 11 prohibits the state from publishing certain court records on the internet. Specifically, criminal cases that are fully disposed via dismissal, acquittal, or a combination of dismissal and acquittal would not be on the internet after 60 days have elapsed from the date the case was disposed.

SSHB 11 also includes legislative intent that the Court System would, to the extent practicable, remove the criminal cases described in section 2 of the bill from its publicly-accessible internet website.

The Court System anticipates that it can make these changes without a fiscal impact. The Court's administrative staff will identify cases that are closed in the way the bill describes, and remove them from the court's public website after 60 days. The Court System also anticipates that, generally, it will be able to remove from its website criminal cases that were disposed by a dismissal, acquittal, or a combination of dismissal and acquittal before the effective date of the bill, as contemplated by the legislative intent. The Court System therefore submits this zero fiscal note.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSSHB 11(JUD)
Fiscal Note Number:	4
(H) Publish Date:	4/2/2015

Identifier: HB011SS-DCCED-CBPL-03-13-15
 Title: NO INTERNET ACCESS TO SOME CRIM. CASES
 Sponsor: WILSON
 Requester: (H) JUDICIARY

Department: Department of Commerce, Community and
Economic Development
 Appropriation: Corporations, Business and Professional
Licensing
 Allocation: Corporations, Business and Professional
Licensing
 OMB Component Number: 2360

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*

(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*

(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No

If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, amended version.

Prepared By: Janey Hovenden, Director
 Division: Corporations, Business, and Professional Licensing
 Approved By: Catherine Reardon, Director
 Agency: Division of Administrative Services, DCCED

Phone: (907)465-2538
 Date: 03/13/2014 04:45 PM
 Date: 03/13/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

SSHB 11 restricts public access on the Alaska Court System website to criminal records that resulted in acquittal or dismissal of charges. It is the intent of the legislature that, to the extent practicable, the Alaska Court System remove from its public Internet website records of criminal cases that were disposed of before the effective date of this Act by acquittal of all charges, by dismissal of all charges, or by acquittal of some charges and dismissal of the remaining charges, to the extent that AS 22.35.030, enacted by sec. 2 of this Act, requires that the records may not be published.

This bill as amended has no effect on the ability of Division of Corporations, Business and Professional Licensing (CBPL) investigators to access information that may be required for boards or the division to evaluate the fitness to practice of professional licensees, as it does not restrict division investigators from accessing the data by official means. There are no negative effects on the board or division's ability to utilize records of these cases if the circumstances are statutory grounds for license action. It is important to note that the division has access to criminal justice information and results of an applicant or licensee's national criminal history record check under AS 12.62.160.

The Division of Corporations, Business, and Professional Licensing does not anticipate fiscal impact from this legislation.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSSHB 11(JUD)
Fiscal Note Number:	5
(H) Publish Date:	4/2/2015

Identifier: HB011-DOC-COMM-03-04-15
 Title: NO INTERNET ACCESS TO SOME CRIM. CASES
 Sponsor: WILSON
 Requester: HOUSE JUDICIARY

Department: Department of Corrections
 Appropriation: Administration and Support
 Allocation: Office of the Commissioner
 OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2016 Request	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Prepared By:	April Wilkerson	Phone:	(907)465-3460
Division:	Administrative Services - Department of Corrections	Date:	03/20/2015 05:00 PM
Approved By:	Remond Henderson, Deputy Commissioner	Date:	03/20/15
Agency:	Department of Corrections		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

This legislation will restrict publication of certain criminal cases from the internet when the defendant has been acquitted and/or charges dismissed in their entirety.

The Department of Corrections does not anticipate a fiscal impact with passage of this legislation therefore submits a zero fiscal note.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSSHB 11(JUD)
Fiscal Note Number:	6
(H) Publish Date:	4/2/2015

Identifier: HB011SS-DHSS-FLSW-03-25-15
 Title: NO INTERNET ACCESS TO SOME CRIM. CASES
 Sponsor: WILSON
 Requester: House Judiciary Committee

Department: Department of Health and Social Services
 Appropriation: Children's Services
 Allocation: Front Line Social Workers
 OMB Component Number: 2305

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2016 Request	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This fiscal note differs from the previous version because the Department has gathered new information from the sponsor and the Alaska Court System. Analysis of the impact of this bill with the addition of new, more comprehensive information leads to a zero fiscal note.

Prepared By:	Christy Lawton	Phone:	(907)451-2096
Division:	Office of Children's Services	Date:	03/24/2015 03:25 PM
Approved By:	Sarah Woods, Deputy Director Finance & Management Services	Date:	03/25/15
Agency:	Health & Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION**Analysis**

This bill would remove from Courtview criminal cases in which all charges have been either acquitted and/or dismissed, in their entirety, 60 days after disposition.

Currently, all records this bill would remove are available online in the publicly accessible database, CourtView. This bill would protect privacy while maintaining due process rights for the public, removing from Courtview records pertaining to criminal charges in which all charges are dismissed and/or acquitted.

These records would still be considered public and accessible at the courthouse. Continued access to such records is important for employees who are responsible for the health, safety, welfare, or placement of a child, a person with a physical or intellectual disability or a person with mental illness. This historical information, which is potentially indicative of patterns of safety concerns, is important to both case worker safety and emergency placement safety decisions.

This bill could also impact the timeliness of background checks if there are discrepancies between the Alaska Public Safety Information Network criminal history information and Courtview information. If discrepancies arise, applicants for employment subject to background checks through Health Care Services will be required to provide court documents verifying conditions around the dismissal, or Health Care Services Background Check staff would have to obtain the court records. This could create delays or barriers to employment.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSSHB 11(JUD)
Fiscal Note Number:	7
(H) Publish Date:	4/2/2015

Identifier: HB011SS-DPS-DSS-03-24-15
 Title: NO INTERNET ACCESS TO SOME CRIM. CASES
 Sponsor: WILSON
 Requester: House Judiciary

Department: Department of Public Safety
 Appropriation: Statewide Support
 Allocation: Statewide Information Technology Services
 OMB Component Number: 3050

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2016 Request	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Gary Lee	Phone:	(907)269-5092
Division:	Statewide Services	Date:	03/23/2015 04:00 PM
Approved By:	Gary Folger, Commissioner	Date:	03/24/15
Agency:	Public Safety		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

This bill requires the Alaska Court System to block public internet access to online court records of cases in which a person was acquitted or in which the charges were dismissed. There is no fiscal impact to the Department of Public Safety/Division of Statewide Services.



Alaska Association of Chiefs of Police

March 6, 2015

The Honorable Tammie Wilson
State Capitol Room 412
Juneau AK, 99801
Representative.Tammie.Wilson@akleg.gov

Dear Representative Wilson,

In my capacity as President of the Alaska Association of Chiefs of Police, I am writing to express our opposition of House Bill 11 "An Act restricting the publication of certain records of criminal cases on the Internet; and providing for an effective date." Our Association is comprised of more than 100 law enforcement executives from all across Alaska, and while we feel this bill was well intentioned, we are unable to lend our support to it. We do not feel that it serves the interests of public safety because infringes on the public's right to know.

We want to thank you for your dedication to the people of Alaska and your continued interest in law enforcement issues. We encourage you to reach out to us by contacting our executive director, Kalie Klaysmat at kalie.klaysmat@aacop.org should you wish to further discuss this or any other matter.

Sincerely,

Deputy Chief Brad Johnson, President

Barbara Barnes

From: Wally Tetlow <wally@alaskanattorneys.com>
Sent: Friday, February 13, 2015 9:54 AM
To: Barbara Barnes
Subject: HB11

Ms. Barnes,

My name is Wally Tetlow. I am a partner at the law firm Tetlow Christie, LLC. I have practiced criminal defense for the last 21 years. I am writing to support HB11, a bill much-needed to stop an inequity that has existed in our criminal justice system for as long as I have been in practice: public display of criminal charges that were dismissed or for which the defendant was acquitted.

During my years of practice, I have represented the guilty and the innocent. Innocent citizens wind up with criminal charges for all sorts of reasons: wrong place at the wrong time, mistaken identity or false allegations. Yet, when the prosecutor is made aware of the citizen's innocence and dismisses the criminal charges, or when a jury is made aware of the citizen's innocence and finds the citizen not guilty, the criminal charges remain available for public view. This can cause the innocent citizen long-term and devastating consequences.

Three cases come to mind. In *State of Alaska v. Jed Smith*, Mr. Smith was charged with nine counts of sexual abuse of a minor for allegedly molesting his daughter. He had not been charged with any criminal offense in his life. The allegations arose for the first time during a child custody dispute between Mr. and Mrs. Smith. Mrs. Smith claimed that their daughter made the allegation to her. The daughter was interviewed by professionals and denied telling her mother what the mother had reported and denied that Mr. Smith had ever abused her. The daughter saw a counselor for a year and repeatedly denied that Mr. Smith had abused her. At the end of the year the custody case was still pending and the mother, dissatisfied with the counselor, fired the counselor. The counselor's professional opinion was that the mother was attempting to manipulate the child to make false allegations against Mr. Smith in order to prevail in the custody dispute. The mother took the child to another counselor, who was able to get the daughter to confirm her mother's tale after a few months. Mr. Smith went to trial to defend his good name, and a jury of his peers found him not guilty of all charges in 3 to 12 minutes, according to the jurors we spoke with afterwards.

In spite of the fact that Mr. Smith was found not guilty by a jury of his peers, the charges remain in the public record. As a result, Mr. Smith has had a great deal of difficulty obtaining employment. So much for restoring his good name.

In *State v. Kevin Shedlock*, Dr. Shedlock, a dentist, was charged with sexual assault for engaging in sexual relations with J.S., who claimed that Dr. Shedlock drugged her so that she was incapacitated; that is, unable to determine that sexual acts were occurring and unable to express a lack of consent. The only witnesses to the sexual acts were J.S. and Dr. Shedlock. J.S. told investigating officers, in some detail, about every sexual act that occurred. She also told investigators that she asked Dr. Shedlock to bring her to climax and that she did so; thus, by her own statements she was aware of the sexual acts and capable of expressing a lack of consent. The Federal Bureau of Investigation conducted drug testing on biological samples obtained from J.S.: the only drugs found in her system were drugs she had prescriptions for and had taken herself. J.S. admitted at trial that she was aware of the sexual acts and had been capable of expressing a lack of consent. Dr. Shedlock was found not guilty by a jury of his peers. Yet, the charges remain on his public record. As a result, Dr. Shedlock has had some difficulty reinstating his medical license and has endured ongoing harassment and embarrassment.

Most recently, in State v. Martin Jackson, a young woman called police and reported that she woke to find an intoxicated young man in her apartment. She claimed she had never seen the young man before and did not know who he was. Based on the young woman's claim, Mr. Jackson was charged with Criminal Trespass. He had never been in any trouble before. Luckily for Mr. Jackson, he had saved the string of text messages the young woman had sent him from her cell phone, inviting him over to her apartment for some drinks. Those text messages were provided to the prosecutor and the charges were dismissed. Mr. Jackson recently advised me that the charges were making it difficult for him to gain employment and inquired what could be done to remove the false charges from his record. I explained that nothing can be done, unless HB11 passes the legislature and is approved by the Governor.

The moral of these stories is that a citizen's good name is not truly restored after charges are dismissed or after the citizen is acquitted by a jury unless the charges are confidential. We believe in our criminal justice system when a person is found guilty. Why should we not believe in that same system when a citizen is found not guilty or when criminal charges are completely dismissed? Why should citizens continue to be disadvantaged by criminal charges for which they were found not guilty?

I urge the legislature to pass HB11 in order to give citizens the benefit of our criminal justice system's determination of innocence.

Wally Tetlow

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My Response to HB 11

My name is Preston Whited. I am an East Anchorage resident and property owner. I am married with two children, my son is two and my daughter is seven. I am a union laborer by trade and have been steadily employed in Alaska since 2003. My income was sufficient when I was single, but now, with a family, my wife and I are finding it much harder to make ends meet. We came to the conclusion that we both needed to pursue higher education if we were ever going to find financial stability.

After receiving my bachelor's degree, I thought I would have no trouble securing an entry-level position with any of the large construction or oilfield companies here in the state. Unfortunately, it proved to be quite a struggle. I made a number of poor choices in my youth, which I answered for, and for which I have a record on court view. The last entry of any significance almost 10 years old. Even so, at every interview and on every job application, I seem to be perpetually re-tried for my past transgressions. The extent to which I am penitent or completely rehabilitated, or how significantly different my life is now, is not necessarily given equal (or any) consideration.

With a click of a button, some person in human resources, whom I have never met, begins to make assumptions about my character which I never have the opportunity to defend against. Any person can pull up my criminal record history, and any clerk can enter things onto my criminal history, regardless of their training in the law or terminology necessary to accurately put CourtView records into context. The record list becomes this nebulous, striking image which barely comports with who I used to be and is no representative of who I am today. If anything, that list inspired me to be a better man, but I cannot attach an explanation to the list. I encounter striking, thoroughly unqualified image each time I aspire to be something more, develop professionally, contribute to my community, and provide a proper life for my family. I cannot imagine the collateral consequences of a capricious youth should so overwhelmingly hinder my potential to turn things around.

I would like to propose the CourtView stop making certain criminal records available to the public after ten years. Naturally exceptions should be made for public awareness, such as most Class A and B felonies, crimes of moral turpitude and any crime involving children. However, most people, my-self-included live life in stark contrast to who we were ten years ago. Thousands of people in Alaska live with decontextualized broadcasts of virtually any interactions with law enforcement like a cloud over their head, forever, without the ability to be defined by the person they became. Turning one's life around should actually mean something. But it can never be realized if someone is always someone else on paper. Until society is informed enough to put CourtView into perspective, or to realize that each individual is not his/her past, I am asking for a legislative solution to this stifling stigma. This is about advancing opportunities for Alaskans, This is about decreased recidivism, this is about faith in the prodigal son, but mostly, this is about hope.

Preston Whited

Carmen L. Gutierrez
529 W. 19th Avenue
Anchorage, Alaska 99503

February 27, 2014

To the Honorable Chairman of the Senate Judiciary Committee,
Senator John Coghill
To the Honorable Members of the Senate Judiciary Committee
State Capital
Juneau, AK 99801-1162

Dear Chairman Coghill and Member Senators,

Thank you for the opportunity to comment on SB 108. As a former criminal defense attorney for 25 years followed by the privilege of serving the state as Deputy Commissioner for the Department of Corrections, I have observed first-hand the need for the criminal justice reforms for which this Committee has so tirelessly worked to advance. I thank this Committee for its courageousness in promoting needed revisions aimed at reducing recidivism. Every former offender who is able to successfully return to his or her community means one less victim, one less crime, and one less costly prosecution.

I believe that SB 108 is another step in that direction. As it stands today, every person who is arrested for a criminal offense has a permanent public record of that arrest. In felony cases, a detailed statement of alleged factual detail accompanies the fact of arrest and charge.

The name of the person arrested and then convicted always remains available to the public through the period of prosecution and after conviction. That is fair.

What is not fair and not in keeping with our system of criminal justice is that under current law a person's name and fact of charge remains available to the public even when the prosecutor dismisses the charge, the charge is dismissed by the court or after a jury acquits the person. Despite dismissal of or acquittal on the charge, the fact of arrest and the accompanying documentation forever remains available for public examination.

The reality is that when the fact of arrest after dismissal continues to be made available for public inspection either by an in-person visit to the courthouse or by review on CourtView, the arrest often becomes synonymous with conviction in the

mind of those doing the inspecting. This greatly impedes a person's ability to find employment, rent an apartment and to live a life free of stigmatization for a crime for which the person was never convicted.

Numerous individuals – both men and woman – in Alaska are arrested for the crime of Assault in the Fourth Degree. A person may be charged with this offense if a police officer concludes there is probable cause to believe that a person by “words or other conduct recklessly places another person in fear of imminent physical injury.”¹

AS18.65.530 appropriately provides that in a domestic relations context, when a person reports to the police that she/he was placed in fear of imminent physical injury, the police must arrest the alleged offender for Domestic Violence Assault when the officer decides there is probable cause to believe the assault took place.

Needless to say, police officers taxed with a tremendous amount of work have to make snap decisions when deciding if there is probable cause to believe an assault occurred. The soundness of the police officer's decision often depends on the experience of the officer and the officer's perceived need to diffuse a situation.

After the person is arrested and charged, a prosecutor later has more time to review the merits of the case. In some cases, upon more careful review and with the benefit of additional facts, the prosecutor determines the charge doesn't merit prosecution and dismisses it. The individual arrested, however, is forever stigmatized by his arrest. It will forever be a part of the Alaska Court System records available for public inspection.

A good number of cases filed in Alaska are ultimately dismissed. For example, in FY 13, the state filed 6,675 felony cases. Of those, the state dismissed 1,289 cases. Of the 29,562 misdemeanor cases filed, the state dismissed 9,508.²

Our constitutional right to due process of law is intended to protect citizens from being treated as convicted persons without first being afforded certain procedural safeguards. That is the way it should be and it is our responsibility to uphold our system of criminal justice, the shining example and envy of other countries.

There are those who would have you believe that their individual judgment is more knowing than the collective wisdom of a jury; that a person's record should forever be stigmatized by an arrest and charge even though the prosecutor dismissed the charge or a jury of his peers acquitted him of the charge. These same individuals would have you believe that an arrest should be equated to conviction of crime. Alaska citizens, judges, prosecutors, and defense attorneys will always have different

¹ AS 11.41.230, a class A misdemeanor offense.

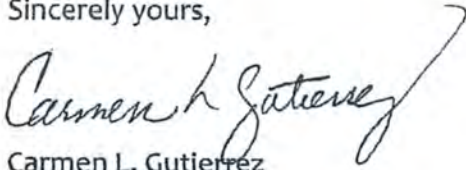
² Data provided by the Alaska Court System on February 26, 2014.

opinions regarding the facts of a case. That is why our system requires due process under the law before someone is convicted of crime and shoulders the burdens associated criminal conviction.

For these reasons, the fact of an arrest and charge without conviction should not forever tarnish the reputation of an Alaskan citizen. SB 108 is intended to rectify these unintended and harmful consequences that in many cases impact a person's ability to successfully live and work in our communities.

Thank you for any consideration you may give my comments.

Sincerely yours,

A handwritten signature in cursive script that reads "Carmen L. Gutierrez". The signature is written in black ink and is positioned above the printed name.

Carmen L. Gutierrez

To the Senate Judiciary Committee:

Good Afternoon, My name is James Noble and I would like to thank this Committee for giving me the opportunity to voice my opinion in support of Senator Fred Dyson's Senate Bill 108 relating to the "Confidentiality of Certain Records of Criminal Cases".

I will keep my personal testimony as brief as possible to share my experience with (2) Charges that were filed against me from an ex-girlfriend and the repercussions I have experienced following a "Dismissal Ruling" from the Judge on both cases.

I believe to communicate this ordeal in its entirety, I must share some history of these charges; however, I will minimize all of the dramatic-details as I really don't enjoy reliving this situation either. With that said, I do appreciate a few moments of your time to hear my testimony and understand why I am so passionate about supporting Senator Dyson's Bill.

In researching this issue, I have discovered that a majority of cases that are encompassed by this bill, seems to involve the revengeful actions from a "significant other" abusing our Court System.

My (2) cases fall into this category.

Back in 2003 – 2007, I was dating a girl named Monica Fox. For purposes of this testimony, I will continue to refer to her only as Monica.

Toward the end of 2006, she ended our relationship and; as I later discovered, she was also dating a man named Charles Otten, her Front-Line Supervisor. What is most important of this statement, is that I would soon discover they were both very well versed at the interworking's of Alaska State Laws, being that they both worked for the State of Alaska's Juvenile Justice System.

Monica and myself continued to maintain a platonic relationship following our separation, until I discovered she had actually been dating someone else. In 2007, I found the love of my life whom I started dating, and later married. For obvious reasons of the time, I severed all financial and emotional support that I had been offering to Monica following our separation.

Not surprisingly, I soon received a Domestic Violence Protection Order from the Courts on September 17th 2007, while I was at work in Prudhoe Bay. Fortunately, I was able to afford a Lawyer to represent me throughout the court proceedings. During the course of my defense of the DV Order, my Lawyer also discovered that she had previously filed a "Stalking Charge" on September 11th 2007, which was dismissed the next day on September 12th 2007. To this day, I have no idea what happened in that case as the Courts has never notified me with any details of that charge. What I can say about that charge, is that it still appears in my Courtview Website Records for all to see, regardless of the fact that it was dismissed...the day after it was filed.

On October 04th 2007, my Lawyer and I appeared in Court to contest the DV Charge. I had several witnesses who were willing to testify on my behalf, including an Alaska State Trooper who could refute Monica's signed statement under oath.

I proved in a court of law that I was not this person that Monica was trying to portray me as. Many of her lies manifested themselves during the hearing, so much to the point that the Judge declined to hear from any of my witnesses and dismissed the DV case due to "Insufficient Evidence".

Unfortunately, I still have those (2) charges of “Stalking and Domestic Violence” listed on my Courtview Website Record for the public view at any time. It is not fair for my wife and I to have to bear the actions of very “Vicious and Vindictive Ex-Girlfriend” whose sole purpose was to use the court system to tarnish my character and future.

Thankfully, I had previously secured employment in a workplace where my Supervisors have known me for over 20 years, but I fear that if I ever have to re-enter the job market, those (2) listed charges would most definitely effect a recruiters opinion of selecting me for an interview. How do I know this? Because from time to time, I have been asked by my Supervisor’s to research potential candidates to work in our department. It is very easy to form a negative opinion of someone based on the Courtview Website, without ever following up to see if the cases were dismissed or acquitted.

Closer to home, my wife has told me that; while we were dating, she had been warned numerous times from her family and friends “Not get involved with James” due to opinions they formed with these (2) charges on Courtview Website Records. Fortunately, these opinions have changed over time, once the family got to know me and I was given the opportunity to explain the situation to them. Based on findings from the Sponsors Statement of this Bill, is my conclusion that for the majority of the time, people never get this chance.

It was very embarrassing to relive this experience all over again and defend my character each time people ask me about it. My response to them, is my same response that I offer the Committee here today: “Please take a moment to read Monica’s DV Petition, and compare it to her recorded testimony, before you form an opinion of me, I can offer up a copy of each upon your request.”

To this date, nobody has taken me up on this offer, my guess is that an opinion (rather good or bad) has already been formed about me and I have to live with the repercussions.

Let’s take a moment to put this more in perspective. I ask that everyone listening here today recall a situation in your life when you were wrongfully accused of something. {Pause} Maybe someone accused you of stealing, or lying? {Pause} Remember how it made you feel to try to defend and explain yourself to your peers? {Pause} Were you able to be vindicated? {Pause}. Now, finally ask yourself, “What would it be like to know that, even though you proved that you were innocent, you would be documented with that charge for all the public to see and for all time?”

In Alaska and in America, we are supposed to be innocent until proven guilty in a court of law, yet my wife and I must continue to bear the label of a “Stalker and DV Assailant”, because of the actions from an ex-girlfriends jealous rage.

In closing, I would like to thank everyone here today for listening to my Testimony and Personal Experience regarding the Courtview Website Records of charges that were acquitted or dismissed against me. I understand that the Courts are now considering a rule change for Civil Cases such as mine, to be included and compliment SB108. For obvious reasons, I support that rule change as well. I challenge this committee to support passage of Senator Dyson’s SB108 as it is not only the right thing to do, but will offer citizens like myself a final sense of closure and privacy from charges in which the Judges have just cause to dismiss or acquit. I thank you for your time.

February 26, 2014

Dear Senator Coghill and members of the Judiciary Committee,

Thank you for this opportunity to comment on SB 108. I am going to make my comments brief.

This bill provides a simple and sensible answer to an important question. What should happen with the record of a state court criminal case when no convictions were obtained and the case is now closed? In other words, when all charges have either been dismissed or gone to trial, and none of the charges resulted in a criminal conviction.

Under SB 108, the approach is straightforward and simple. Three months after the case is closed, the court file is designated as confidential. This means, simply, that the court record is no longer offered for general public viewing.

In many states, expungement is an available remedy for a nonconviction record but Alaska does not have an expungement statute. SB 108 provides a less drastic remedy than expungement. SB 108 would not require the destruction of court records. Nor does it impede or unnecessarily burden law enforcement. Law enforcement and prosecutors still have access to the records.

Does the court system have an ongoing obligation to provide the general public with access to information which no longer has legal relevance? No. The Legislature has long recognized that not every piece of court-maintained information is accessible by the general public. Not probate records. Not adoption records. Not records of civil commitment proceedings concerning the decision whether to institutionalize mentally ill people.

The reason for making this small number of closed nonconviction records confidential is a good one. It avoids an unnecessary risk of harm to a person. Even though we all know it should not make any difference, just the information that there once was a criminal accusation can limit a person's economic opportunity and severely damage a community reputation. Making such records confidential, by contrast, provides a meaningful end to a criminal process.

Is being merely accused of a crime that much of a hardship? Perhaps there is no better illustration of the personal impact of criminal litigation for us Alaskans than the case of Senator Ted Stevens. After 41 years of faithful service,

he was charged with crimes and convicted. His conviction was later thrown out because of gross prosecutorial misconduct and the case was dismissed. If Sen. Stevens had been charged in state court with state crimes, his public court records would forever tar him as a criminal defendant. Why is that fair? Why should any citizen be treated that way for all time?

I understand that a letter has been submitted by Taylor Winston. I find it interesting that Ms. Winston, a former prosecutor opposing the bill, shows little regard for constitutional basics. She would stigmatize persons for all eternity with the mere fact that criminal charges were once filed. The Founding Fathers disagreed—they prescribed no penalty, no loss of privilege and no loss of privacy for those who had once been charged but not convicted with a crime.

Ms. Winston also thinks that the grand jury has a 'good enough' fact-finding process such that their indictments should forever stand as public monuments. She seems to forget that the grand jury meets in secret with the prosecutor and that the accused and his lawyer aren't allowed in. The Founding Fathers rejected the Star Chamber model as a reliable means of determining guilt.

Finally, she argues the Courtview is objective and provides information the public can use to can protect itself. Her example - she would check Courtview to help make a decision on a babysitter. This is a great example as to why SB 108 should be enacted. Courtview warns the reader as to its unreliability and yet people still rely on it, presumptively, for making important decisions on someone's trustworthiness.¹

SB 108 should be approved. It is a neat, nifty way to be fair to defendants - like Sen. Stevens- who end up with non-conviction cases, without undermining law enforcement or prosecutorial functions.

Thank you.

Mary Geddes
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Anchorage, AK 99501

¹ By the way, parents can easily obtain reliable information about a potential babysitter's entire arrest record from the Alaska State Troopers by getting the babysitter's consent and paying \$20. SB 108 does not effect this mechanism at all.