

228

HJ

HB

385

-

HB

432

CCO

House Judiciary Committee
April 14, 1975

HB 52 Public Adjustor

Mr. Bradner, sponsor of the bill, testified that the public presently does not complain about insurance problems because they do not know where to go. The bill would create an insurance ombudsman who would function within the Division of Insurance. He would remain independent and would have authority to pursue routine complaints and identify abusive companies. The Division does not favor an independent Adjustor but would like additional monies so that the Division could handle complaints. Mr. Bradner felt that because of the very existence of the Adjustor, many problems would never develop. A pamphlet advertising that the Adjustor will handle complaints is being provided for in another bill.

page 2, line 4, delete the word "ombudsman" and replace with "will assist" Mr. Parr moved the amendment which passed.

Mr. Brown moved on page 1, line 10 that "director" be changed to "governor". There being no objection, it was so ordered.

Ted Smith explained that an appointee of the governor working independently within a Division would have a difficult time. He suggested that the Adjustor be explicitly made a member of the partially exempt service. Mr. Brown moved that an addition to the bill to this effect be added. There being no objection, it was so ordered.

Mr. Brown moved that a CS be drawn up incorporating the above amendments. It was so ordered.

HB 385 Early Judicial appointment

The Judicial Council, which suggested the bill, submitted proposed language to take care of the problem of possible lame duck appointments. Mr. Brown moved that on page 1, line 22 and page 2, line 9 add "no more than sixty days early" be added. The amendment passed and Mr. Brown moved HB 385 am out of committee do pass. There being no objection, it was so ordered.

Introduced: 4/7/75
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 385

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to judicial appointments."

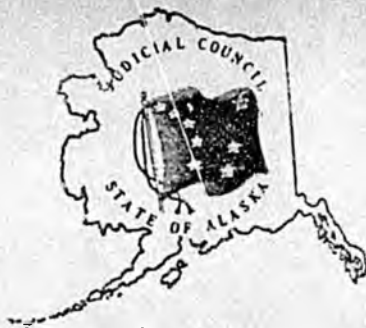
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 22.05.080(b) is amended to read:

9 (b) The office of a supreme court justice, including the office of
10 chief justice, becomes vacant 90 days after the election at which he is
11 rejected by a majority of those voting on the question, or for which he
12 failed to file his declaration of candidacy to succeed himself. [A
13 SUCCESSOR TO THE OFFICE OF JUSTICE MAY BE APPOINTED, AND A SUCCESSOR TO
14 THE OFFICE OF CHIEF JUSTICE MAY BE SELECTED BY THE OTHER JUSTICES,
15 DURING THIS 90-DAY PERIOD AND THE APPOINTMENT OR SELECTION BECOMES
16 EFFECTIVE UPON THE VACANCY OCCURRING.] A vacancy in the office also
17 occurs by reason of the death, retirement, resignation, forfeiture, or
18 removal from office of a justice. If a vacancy occurs the judicial
19 council shall meet no more than [WITHIN] 30 days thereafter and submit
20 to the governor the names of two or more persons nominated to fill each
21 vacancy. A successor to the office of supreme court justice may be
22 appointed by the governor ^{no more than 10 days} before the vacancy occurs, and the appointment
23 becomes effective upon the vacancy occurring.

24 * Sec. 2. AS 22.10.100(b) is amended to read:

25 (b) The office of a superior court judge becomes vacant 90 days
26 after the election at which he is rejected by a majority of those voting
27 on the question, or for which he failed to file his declaration of
28 candidacy to succeed himself. [HIS SUCCESSOR MAY BE APPOINTED DURING
29 THIS PERIOD AND THE APPOINTMENT BECOMES EFFECTIVE UPON THE VACANCY



Alaska Judicial Council

303 K STREET
ANCHORAGE, ALASKA
99501

EXECUTIVE DIRECTOR
R. ELDRIDGE HICKS

LAY MEMBERS

KENNETH L. BRADY
LEW M. WILLIAMS, JR.
ROBERT MOSS, SR.

LAW MEMBERS

MICHAEL A. STEPOVICH
EUGENE F. WILES
MICHAEL M. HOLMES

CHAIRMAN, EX OFFICIO

JAY A. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

April 8, 1975

Representative Terry Gardiner
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Terry:

Attached please find a revised draft of the legislation proposed by the Judicial Council for improving the permissible timeframe for appointing judges. Pursuant to your observation of the need to insure that a "lame duck" administration could not appoint persons to fill judicial vacancies arising at some unreasonable future time, I have revised the originally proposed legislation to provide that a successor for a judicial vacancy may be appointed by the governor "no more than 60 days" before the vacancy occurs. A 60-day lead time would be sufficient for a private attorney to dispose of pending business and prepare for his move to the new judgeship, while also limiting the power of any governor to make appointments far beyond the tenure of his office. (Of course, the likelihood of such "lame duck" appointments is highly remote even without the present 60-day safeguard. It would require collaboration by a majority of the Judicial Council and the governor--which is itself an unlikely possibility because of the staggered 6-year terms of the Judicial Council members.)

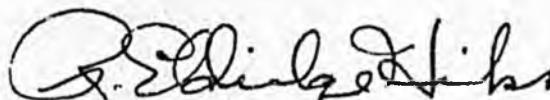
Senator Ziegler has informed me that he will defer action by the Senate Judiciary Committee on this bill relating to the timeframe for judicial appointments, and on the Judicial

Representative Terry Gardiner
April 8, 1975
Page Two

Council's proposed bill for evaluating judges prior to retention elections, until action is taken by your committee. I am presuming at this time that you are favorable to introducing these recommendations under the sponsorship of the judiciary committee, by request. If you feel differently, or if I can be of any assistance, please do not hesitate to contact me.

Thank you in advance for your time and consideration.

Sincerely,



R. Eldridge Hicks
Executive Director

REH/jsh
cc: Senator Ziegler
Council members

IN THE _____

_____ BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the timeframe for judicial appointments."

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

Section 1. AS 22.05.080(b) is amended to read:

(b) The office of a supreme court justice, including the office of chief justice, becomes vacant 90 days after the election at which he is rejected by a majority of those voting on the question, or for which he failed to file his declaration of candidacy to succeed himself. [A successor to the office of justice may be appointed, and a successor to the office of chief justice may be selected by the other justices, during this 90-day period and the appointment or selection becomes effective upon the vacancy occurring.] A vacancy in the office also occurs by reason of the death, retirement, resignation, forfeiture, or removal from office of a justice. If a vacancy occurs the Judicial Council shall meet [within] no more than 30 days thereafter and submit to the governor the names of two or more persons nominated to fill each vacancy. A successor to the office of supreme court justice may be appointed by the governor no more than 60 days before the vacancy occurs, and such an appointment becomes effective upon the vacancy occurring.

Section 2. AS 22.10.100(c) is amended to read:

(d) The office of a superior court judge becomes vacant 90 days after the election at which he is rejected by a majority of those voting on the question, or for which he fails to file his declaration of candidacy to succeed himself. [His successor may be appointed during this period and the appointment becomes effective upon the vacancy occurring.] A vacancy in the office also occurs by reason of the death, retirement, resignation, forfeiture or removal from office of a judge. In the event of any vacancy other than an initial vacancy, or

immediately upon clarification of rejection following an election, or immediately upon failure of a judge to file declaration of candidacy, the judicial council shall meet [within] no more than 30 days thereafter and submit to the governor the names of two or more persons nominated to fill each vacancy. A successor to the office of superior court judge may be appointed by the governor no more than 60 days before the vacancy occurs, and such an appointment becomes effective upon the vacancy occurring.



Alaska Judicial Council

303 K STREET
ANCHORAGE, ALASKA
99501

EXECUTIVE DIRECTOR
R. ELDRIDGE HICKS

LAY MEMBERS

KENNETH L. BRADY
LEW M. WILLIAMS, JR.
ROBERT MOSS, SR.

LAW MEMBERS

MICHAEL A. STEPOVICH
EUGENE F. WILES
MICHAEL M. HOLMES

CHAIRMAN, EX OFFICIO

JAY A. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

March 25, 1975

Hon. Terry Gardiner
Chairman, House Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Representative Gardiner:

Enclosed please find a report of the Judicial Council with recommendations for changes in the timeframe for nominating and appointing judges to fill vacancies.

The present statutes guard against undue delay by requiring that the Judicial Council meet at least 30 days after the vacancy, and that the Governor make an appointment within 45 days after receiving nominations from the Council. However, the language of these provisions implicitly prevents the Council and the Governor from acting more expeditiously, effecting a smooth transition between the retiring judge and the new judge.

If you have any further questions, the members of the Council will be happy to answer them during the scheduled meeting with legislators in the Governor's Conference Room on Wednesday, April 2nd at 2:00 p.m.

Sincerely,

R. Eldridge Hicks
Executive Director

REH/jsh
Enclosure



Alaska Judicial Council

303 K STREET
ANCHORAGE, ALASKA
99501

LAY MEMBERS

KENNETH L. BRADY
LEW M. WILLIAMS, JR.
ROBERT MOSS, SR.

LAW MEMBERS

MICHAEL A. STEPOVICH
EUGENE F. WILES
MICHAEL M. HOLMES

CHAIRMAN, EX OFFICIO

JAY A. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

EXECUTIVE DIRECTOR
R. ELDRIDGE HICKS

RECOMMENDATIONS FOR CHANGES IN
THE TIMEFRAME FOR
JUDICIAL APPOINTMENTS

AS 22.10.100(a) provides, "The governor shall fill a vacancy in the office of superior court judge within 45 days after receiving nominations from the judicial council by appointing one of two or more persons nominated by the council for each vacant position."* AS 22.10.100(b) provides in part, "In the event of any vacancy other than an initial vacancy, or immediately upon certification of rejection following an election, or immediately upon failure of a judge to file declaration of candidacy, the judicial council shall meet within 30 days thereafter and submit to the governor the names of two or more persons nominated to fill each vacancy."

This language indicates quite specifically that the Judicial Council must meet within 30 days after a vacancy occurs to consider applicants for nomination to the governor. However, the language of the statute does not address specifically the question of what constitutes a "vacancy," and the question of whether the Judicial Council may meet to consider applicants prior to the vacancy occurring. This ambiguity in turn leaves unclear whether the governor may appoint a new judge to fill a "vacancy" prior to that vacancy actually occurring.

One sentence in AS 22.10.100(b) provides that "A vacancy in the office also occurs by reason of . . . [the] resignation . . . of a judge," but that sentence does not indicate whether the "vacancy" for screening and appointing purposes

* The full texts of the relevant statutes are set forth in Appendix I, below. AS 22.05.080 is essentially similar with regard to supreme court justices as the above statutory reference for superior court judges. All of the following discussion applicable to the appointment of superior court judges is also applicable to the appointment of supreme court justices.

occurs at the time that the resignation is submitted, or, on the effective date of the resignation. However, another sentence in the above-referenced subsection of the statute does shed some light on the question, in the context of a judge's rejection by a majority of the voters. It provides, "The office of a superior court judge becomes vacant 90 days after the election at which he is rejected by a majority of those voting on the question" Here the word "vacant" specifically refers to the date when the judge leaves his official duties, and specifically does not mean the date when the State is placed on notice that an opening soon will occur.

The next sentence of subsection AS 22.10.100(b) provides, "His successor may be appointed during this period and the appointment becomes effective upon the vacancy occurring." This sentence further indicates that a "vacancy" is the date when the judge actually leaves the office, insofar as it makes special provision for an appointment "during this period" between notice of an opening and the actual occurrence of that opening.

Hence, given the fact that under AS 22.10.100(a) the governor has the power only to fill a "vacancy" in the judiciary, he presently does not have the power to appoint a new judge until the resigning or retiring judge actually leaves his official duties, unless that judge is departing after losing a retention election. Because the governor is not empowered to fill an impending vacancy prior to its actual occurrence, a time lag is created in which the judiciary is

understaffed and the opportunity for a smooth transition of work to the successor judge is lost.

AS 22.10.100(b) also provides that, "In the event of any vacancy . . . the judicial council shall meet within 30 days thereafter and submit to the governor the names of two or more persons nominated to fill each vacancy." [Emphasis added.] The use of the word "shall" in this sentence indicates quite specifically that the Judicial Council must meet within 30 days after a vacancy occurs, to consider applicants for nomination to the governor. However, the language leaves unanswered the question of whether the Judicial Council may meet to consider applicants prior to the vacancy occurring. The language is stated in terms of limiting the possibilities of delay in filling a superior court vacancy, and does not specifically provide for how expeditiously an impending vacancy can be filled. This ambiguity should be clarified.

Even if one assumes that the Judicial Council can receive applications and make nominations for an impending vacancy prior to the effective date of the judge's resignation, that effort is futile if it proceeds before a timeframe which places the 45th day some time after the effective date of the resignation, because the governor does not have the power to make an appointment before the effective date of the resignation and the governor must exercise his power within 45 days after receiving nominations from the Judicial Council.

The result of this confusing, ambiguous and limiting statutory language is that the screening, nominating and

appointing process for new judges is needlessly delayed even when a retiring judge gives 90-120 days notice of his impending departure. Although it would be desirable to have a new judge appointed and ready to assume responsibilities at the time that the retiring judge leaves his position, it is futile for the Judicial Council to begin advertising a vacancy until the timeframe is such that some period of the 45-day timeframe for gubernatorial appointment falls subsequent to the actual departure of the retiring judge.

The language of the present statute indicates that the probable intent of the drafters was to guard against unnecessary delay in filling a judicial vacancy. The law provides that "The governor shall fill a vacancy . . . within 45 days after receiving nominations" It also provides that "The judicial council shall meet within 30 days thereafter" That policy of preventing delay is commendable, however there is no public policy served by delaying (probably inadvertently) the timeframe for nominations and appointments until such time as the vacancy actually occurs.

Appendix II contains the recommendations of the Judicial Council for amending AS 22.05.080(b) and AS 22.10.100(b) in a manner which continues to prevent unnecessary delays in filling judicial vacancies, while also permitting these vacancies to be filled quickly and efficiently. The special provision in the present statute for the appointment of a judge before the vacancy actually occurs when a judge is rejected in his retention election is deleted in favor of a more general reference empowering

the governor to appoint a successor to a judgeship before the vacancy actually occurs, no matter how the vacancy occurred. The amendments would also clarify the fact that the Judicial Council must meet "no more than" 30 days after a vacancy occurs, without implying any constraint on the possibility that the Judicial Council may meet earlier than during the 30 days subsequent to the vacancy.

Sec. 22.05.080. Vacancies. (a) The governor shall fill a vacancy in the office of supreme court justice within 45 days after receiving nominations from the Judicial Council, by appointing one of two or more persons nominated by the Judicial Council for each vacant position.

(b) The office of a supreme court justice, including the office of chief justice, becomes vacant 90 days after the election at which he is rejected by a majority of those voting on the question, or for which he failed to file his declaration of candidacy to succeed himself. A successor to the office of justice may be appointed, and a successor to the office of chief justice may be selected by the other justices, during this 90-day period and the appointment or selection becomes effective upon the vacancy occurring. A vacancy in the office also occurs by reason of the death, retirement, resignation, forfeiture, or removal from office of a justice. If a vacancy occurs the Judicial Council shall meet within 30 days thereafter and submit to the governor the names of two or more persons nominated to fill each vacancy. (§ 8(2) ch 50 SLA 1959; am § 30 ch 32 SLA 1971)

Sec. 22.10.100. Vacancies. (a) The governor shall fill a vacancy in the office of superior court judge within 45 days after receiving nominations from the judicial council by appointing one of two or more persons nominated by the council for each vacant position.

(b) The office of a superior court judge becomes vacant 90 days after the election at which he is rejected by a majority of those voting on the question, or for which he failed to file his declaration of candidacy to succeed himself. His successor may be appointed during this period and the appointment becomes effective upon the vacancy occurring. A vacancy in the office also occurs by reason of the death, retirement, resignation, forfeiture or removal from office of a judge. In the event of any vacancy other than an initial vacancy, or immediately upon certification of rejection following an election, or immediately upon failure of a judge to file declaration of candidacy, the judicial council shall meet within 30 days thereafter and submit to the governor the names of two or more persons nominated to fill each vacancy. (§ 23 ch 50 SLA 1959)

APPENDIX I



Alaska Judicial Council

303 K STREET
ANCHORAGE, ALASKA
99501

EXECUTIVE DIRECTOR
R. ELDRIDGE HICKS

LAY MEMBERS

KENNETH L. BRADY
LEW M. WILLIAMS, JR.
ROBERT MOSS, SR.

LAW MEMBERS

MICHAEL A. STEPOVICH
EUGENE F. WILES
MICHAEL M. HOLMES

CHAIRMAN, EX OFFICIO

JAY A. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

April 8, 1975

Representative Terry Gardiner
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Terry:

Attached please find a revised draft of the legislation proposed by the Judicial Council for improving the permissible timeframe for appointing judges. Pursuant to your observation of the need to insure that a "lame duck" administration could not appoint persons to fill judicial vacancies arising at some unreasonable future time, I have revised the originally proposed legislation to provide that a successor for a judicial vacancy may be appointed by the governor "no more than 60 days" before the vacancy occurs. A 60-day lead time would be sufficient for a private attorney to dispose of pending business and prepare for his move to the new judgeship, while also limiting the power of any governor to make appointments far beyond the tenure of his office. (Of course, the likelihood of such "lame duck" appointments is highly remote even without the present 60-day safeguard. It would require collaboration by a majority of the Judicial Council and the governor--which is itself an unlikely possibility because of the staggered 6-year terms of the Judicial Council members.)

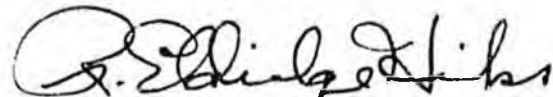
Senator Ziegler has informed me that he will defer action by the Senate Judiciary Committee on this bill relating to the timeframe for judicial appointments, and on the Judicial

Representative Terry Gardiner
April 8, 1975
Page Two

Council's proposed bill for evaluating judges prior to retention elections, until action is taken by your committee. I am presuming at this time that you are favorable to introducing these recommendations under the sponsorship of the judiciary committee, by request. If you feel differently, or if I can be of any assistance, please do not hesitate to contact me.

Thank you in advance for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Eldridge Hicks".

R. Eldridge Hicks
Executive Director

REH/jsh
cc: Senator Ziegler
Council members

IN THE _____

_____ BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the timeframe for judicial appointments."

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

Section 1. AS 22.05.080(b) is amended to read:

(b) The office of a supreme court justice, including the office of chief justice, becomes vacant 90 days after the election at which he is rejected by a majority of those voting on the question, or for which he failed to file his declaration of candidacy to succeed himself. [A successor to the office of justice may be appointed, and a successor to the office of chief justice may be selected by the other justices, during this 90-day period and the appointment or selection becomes effective upon the vacancy occurring.] A vacancy in the office also occurs by reason of the death, retirement, resignation, forfeiture, or removal from office of a justice. If a vacancy occurs the Judicial Council shall meet [within no more than 30 days thereafter and submit to the governor the names of two or more persons nominated to fill each vacancy. A successor to the office of supreme court justice may be appointed by the governor no more than 60 days before the vacancy occurs, and such an appointment becomes effective upon the vacancy occurring.]

Section 2. AS 22.10.100(c) is amended to read:

(d) The office of a superior court judge becomes vacant 90 days after the election at which he is rejected by a majority of those voting on the question, or for which he fails to file his declaration of candidacy to succeed himself. [His successor may be appointed during this period and the appointment becomes effective upon the vacancy occurring.] A vacancy in the office also occurs by reason of the death, retirement, resignation, forfeiture or removal from office of a judge. In the event of any vacancy other than an initial vacancy, or

immediately upon clarification of rejection following an election, or immediately upon failure of a judge to file declaration of candidacy, the judicial council shall meet [within] no more than 30 days thereafter and submit to the governor the names of two or more persons nominated to fill each vacancy. A successor to the office of superior court judge may be appointed by the governor no more than 60 days before the vacancy occurs, and such an appointment becomes effective upon the vacancy occurring.

superose

Gilbert band

25% cotton

HB

3911

"An Act providing for disclosure of the names of contractors and the terms of certain public contracts; e.d."

COMMITTEE REPORT

4/10/75

HOUSE

Mr. Speaker:

Date 5/19/75

The Committee on JUDICIARY has had HB 391

under consideration. A Majority of the members of the Committee

- () recommends it DO PASS
- () recommends it DO NOT PASS
- () recommends it DO PASS WITH ATTACHED AMENDMENT(S)
- recommends it BE REPLACED WITH CS FOR HB 391 AND THAT
CS FOR HB 391 DO PASS
- () "and" recommends it BE REFERRED TO THE _____
COMMITTEE
- () reports it back WITHOUT RECOMMENDATION
- () "other"

Members signing the Majority report:

Jerry Hardin _____

[Signature] _____

[Signature] _____

[Signature] _____

Members NOT concurring in the Majority report:

[Signature] recommends: no rec

[Signature] recommends: _____

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

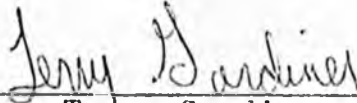
Jerry Hardin Chairman

HOUSE JOURNAL

May 19, 1975

House Judiciary Committee
Statement of Intent
HB 391 Disclosure of contractors names and terms

The Judiciary Committee substituted the Legislative Budget and Audit Committee for the Department of Administration as the agency responsible for preparing the survey of public contracts, as the Budget and Audit Committee is better equipped to perform what is essentially an audit function. The report should be generally available to members of the public. It is anticipated that the summary will be distributed to members of the Legislature and several copies will be available in library reference files. Personal copies for private citizens should be sold at cost to the state.



Terry Gardiner
Chairman
House Judiciary

MEMORANDUM

State of Alaska DIVISION OF LEGISLATIVE AUDIT

TO: The Honorable Thelma Bucholdt
Alaska State Representative

DATE: May 7, 1975

FILE NO:

TELEPHONE NO:

FROM: James Walker

SUBJECT: House Bill 391

Attached to this memo is a computer generated report that lists all of the contractors who have received payments of \$1,000 or more from the State of Alaska during the period July 1, 1974 to December 31, 1974. This report includes the number of payments, the total amount of the payments, and the vendor name and address. This information is available by specific agency as well as for the entire state. The source of this information is the monthly PBA transaction files and a vendor master file. These are computerized files maintained by the Department of Administration.

With respect to implementing House Bill 391, the following information is readily available in computerized form;

1. The names of contractors receiving or contracting to receive \$1,000 or more in State funds during a given period.
2. The principal places of business of the contractors.
3. The contracting State agency.
4. The amount of funds disbursed or encumbered to specific contractors.

Information as to the terms of the various contracts is not in a computerized form nor, as far as I know, are these documents maintained in a centralized location. Information regarding major stockholders would be very difficult to obtain given the large number of contractors.

I feel that the annual report proposed by House Bill 391 could be prepared at a reasonable cost utilizing available information and the State's computer system. There are, however, several procedures that would have to be established.

First, information as to the terms of each contract would have to be extracted and reported in a concise standardized format. This function would probably be performed by the contracting agency.

Second, this information would be transmitted to a central location where it would be converted to punched cards or any other machine readable medium.

Finally, utilizing document numbers, the computer could match information regarding the content of contracts with vendor data, encumbrance data, and expenditure data and print the desired report. The computer printed report could then be reproduced for distribution.

The one time cost to program the computer to prepare this report should not exceed \$10,000. Other associated costs would be difficult to estimate without knowing the specific number of contracts and contractors. A reasonable "guesstimate", however, is \$15,000 to \$20,000 per year including clerical time, Key punching, and computer time. This does not include, however, obtaining information as to major shareholders of contractors.

If I can be of further assistance, please feel free to contact me.

HB 391 Contractor Names

Representative Buchholdt, sponsor of the bill, stated that it was designed to learn how the state contracts with private, profit making corporations. She deemed it a "sunshine" bill, and stated that the date the report is requested by in the bill may be too early.

The administration testified that this bill asks for information that the Department of Administration does not have (per vendor per year, subcontractors). He estimated that the state signs approximately 7,000 contracts per year that are not purchase orders. The Department would require lead time of at least a year to prepare to comply with the requests in the bill.

The committee discussed whether the terms of the contract required in the report were too much to ask and whether the contract number would be sufficient. Rep. Buchholdt stated that she wanted to know the nature of the services or goods to be provided. The committee decided that the bill needed more work.

House Judiciary Committee
May 16, 1975

The meeting was called to order at 3:30 by Chairman Gardiner. All members were present.

HB 105 Hold Harmless

This bill eliminates a present abuse whereby large companies hold their subcontractors responsible for the larger company's negligence in contractual agreements. The Commerce CS eliminated the retroactive date.

page 1, line 26: add the language any agreement that is not principally or primarily a contract of indemnity or insurance.

page 2, line 7: change mortgage to mortgages

page 2, line 8: and financing statements. delete and insurance.

delete page 1, lines 23 and 24 (b)

delete page 2, lines 9 and 10.

The above amendments passed and the Judiciary CS for HB 105 was moved out of committee.

SB 113 Health Care information

The prepared Judiciary CS was reviewed and reported out of committee.

SB 158 Larceny

This bill reflects an increase in the dollar amount between misdemeanors and felonies to keep up with inflation. The bill was passed out of committee.

HB 391 Contractor's names

The committee agreed to ask for a summary of terms of the contract instead of "terms". On line 12 "at least annually" was deleted and replaced with "before October 1." and that the reports would commence in 1975.

Page 1, line 25 add "vendors"

The committee requested a letter of intent stating that the cost of printing and distribution should be kept to a minimum with copies available for public inspection, possibly in public libraries.

The bill was passed out of committee as a Judiciary CS.

HB 459 Fathers leave

Susan Sullivan, sponsor of the bill, stated that she intended that new fathers should have the same rights as new mothers. She expected that most people would take about two weeks only. The proposed Judiciary CS stated that this leave could be charged to medical only. She objected first because some offices might interpret this to disallow even annual leave. She suggested that medical leave be used first. She also raised the question of adoptive parents.

HB

402

"An Act relating to removal of disabilities of a minor; and amending Rules 3 and 17 of the Rules of Civil Procedure."

COMMITTEE REPORT

4/9/75

HOUSE

HESS

Mr. Speaker:

Date

5/14/75

The Committee on JUDICIARY has had HB 402

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR HB 402 AND THAT

CS FOR HB 402 DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

House Judiciary Committee
May 5, 1975

HB 402 Disabilities of a Minor

Connie Hansen of Family and Children Services stated that the Department favors the bill as is.

Susan Gordon and Melissa Middleton of Alaska Youth Advocates proposed three amendments: page 2, line 11: insert "only" between "to" and "by", page 2, line 5 change "this requirement of consent" to "the requirement of this subsection" page 2, line 12, add "Except for the specific statutory and constitutional requirements of voting and drinking."

They explained that emancipation is now left up to the judge under common law. This bill would regulate an existing practice and would provide a definition of emancipation.

Don Clocksin of Alaska Legal Services stated that in (d) a guardian for a specific purpose should not be able to consent to emancipation without the consent of the parents. The requirement that the person must be self supporting raises the question of how a person could become trapped -- couldn't get welfare because he was a minor, and couldn't be emancipated because he is not self supporting. Mr. Clocksin objected to the requirement that the person be presently self supporting, and suggested that it would be sufficient if he was capable of self support and able to manage his own financial affairs. Mr. Specking stated that this would remove the whole thrust of responsibility. Mr. Clocksin favored deletion of (e) mandatory guardian ad litem and suggested that a permissive guardian ad litem or an attorney be appointed by the court.

Since there were several suggested amendments, the committee requested that a CS be drawn up for their further consideration.

HB 432 Child Protection

Susan Sullivan, sponsor of the bill, stated that it was required to get state statutes in compliance with federal law in order to be eligible for funding. There is a companion bill making a \$100,000 appropriation to provide child counseling, etc. (lines 20 - 23).

The committee questioned the mandatory requirement in line 27, page 1. Mrs. Hansen stated that she would like to prepare a position paper. Mr. Brown stated that he would like to change the penalty provision. The committee determined to hold the bill one day for further work.

House Judiciary Committee
May 9, 1975

The meeting was called to order at 4 p.m. by Chairman Gardiner.
All members were present.

SB 350 Marijuana

The amendments proposed by the AG in response to Commissioner Burton's objections: (search, confiscate, id) were adopted. The Attorney General stated that under the bill it would be more difficult to initiate a case, but easier to prove one. Mr. Parr moved Judiciary CS SS SB 350 am out of committee. There being no objection, it was so ordered.

HB 432 Child Protection

Mr. Brown moved that Section 2 (e) be deleted. The amendment passed.

Mr. Brown moved on page 2, lines 7 and 8: add imprisonment for not more than one year or . . . \$5,000, or by both. The amendment passed.

Page 2, line 6: add willfully. The amendment passed.

Federal statutes require mandatory compliance. The definition in the bill is parallel to the federal definition.

CS HB 432 (Judiciary) was moved out of committee.

HB 402 Disabilities of a minor

Mr. Parr raised the question of specific exemptions for voting and drinking. Mr. Brown moved on line 29 language to the effect that: constitutional age requirements, except for those pertaining to alcohol. The amendment passed.

Mr. Brown moved on page 1, line 20: change the parent to a parent. The amendment passed.

Mr. Brown moved on page 1, line 21: subsection, as to that parent or guardian. The amendment passed.

Mr. Brown moved on page 2, line 1: included but not limited to. The amendment passed.

Judiciary CS HB 402 was passed out of committee.

SB 132 Nursing Home administrators

Research showed that a board was necessary in order to get federal funding. The committee recommended a letter of intent to the effect that it is the desire of the legislature to see a uniform act -- which would eliminate the need for a bunch of boards.

House Judiciary Committee
May 9, 1975
page 2

Page 1, delete (b) after consult
line 14: 1 administrator, 2 public representatives
lines 19 - 21 governor. delete rest
page 2, line 1 delete "at least"
page 2, line 17: delete (5) and renumber
page 3, line 4 add not applicable to Pioneers Homes
page 3, delete 100 and renumber, delete "qualified"
page 2, line 5 delete are of good character, with
page 4 delete (2) investigation

The above amendments were adopted and Judiciary CS SB 132
was moved out of committee.

SB 60 Arbitrary Discrimination

The amendments suggested by Mr. Bowman and Mr. Thomas were
adopted and the bill reported out of committee as a CS.

H 402

Alaska Youth Advocates, Inc.

1200 EAST 27TH AVENUE PHONE 274-6541
ANCHORAGE, ALASKA 99504

BOARD OF DIRECTORS

ROBT. H WAGSTAFF, PRES.
ALAN BRAVERMAN
STEVEN D. CYSEWSKI
H. JOHN DENAULT III
WILLIAM H. JACOBS
JACK KLEINKAUF
ROGER MOONEY
SUSAN ROGUSZKA
KEVIN SANDERS

PROGRAM DIRECTORS

SUSAN C. GORDON
MELISSA MIDDLETON

21 April 1975

Representative Terry Gardiner
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99801

Dear Terry,

Enclosed please find our recommended amendments to HB 402. It is important that these be included in the bill, particularly the third one, because otherwise one could interpret "constitutional and statutory age requirements" to include all those disabilities of minority that the bill wishes to remove -- for instance, ability to sign a contract.

Please pass this position paper on to the other members of your committee.

Thank you very much.

Best wishes,



Melissa Middleton
Co-director

Alaska Youth Advocates, Inc.

1200 EAST 27TH AVENUE PHONE 274-6541
ANCHORAGE, ALASKA 99504

BOARD OF DIRECTORS

ROBT. H WAGSTAFF, PRES.
ALAN BRAVERMAN
STEVEN D. CYSEWSKI
H. JOHN DENAULT III
WILLIAM H. JACOBS
JACK KLEINKAUF
ROGER MOONEY
SUSAN ROGUSZKA
KEVIN SANDERS

PROGRAM DIRECTORS

SUSAN C. GORDON
MELISSA MIDDLETON

POSITION PAPER ON HB 402

Alaska Youth Advocates, Inc. encourages amending HB 402, "An Act relating to removal of disabilities of a minor," as follows:

1. Page 2, line 11 (Section 1, subsection d): To clarify that only the guardian need consent, not the parents who have been deprived of custody, insert the word "only" between the word "to" and the word "by".

2. Page 2, line 5 (Section 1, subsection d): For clarity, change the phrase "this requirement of consent" to "the requirement of this subsection."

3. Page 2, line 12 (Section 1, subsection g): To clarify the exceptions of this act, change this subsection to read: "Except for the specific statutory and constitutional requirements of voting and drinking, a minor whose disabilities are removed for general purposes has the power and capacity of an adult, including the right to control himself or herself, the right to be domiciled where he or she desires, the right to receive and control his or her earnings, to sue or be sued, and the capacity to contract."

con't

Alaska has no statutory provisions for either complete or partial removal of the disabilities of a minor. Common law prevails. Emancipation, both general and limited, have been petitioned for and granted in Alaska. However, no guidelines exist, no one knows what the removal of disabilities of minority means in Alaska. It is left solely to the court's discretion, on a case by case basis, to determine the requirements for, procedures of, and effect of such removal. This leaves not only the courts, police, and community, but the young people with a legal situation which is basically undefined, and often times misunderstood.

We have seen relatively few young people that are mature and stable enough to live completely on their own. Putting into statute form what is now common law will not open the floodgate -- the requirements are stringent in HB 402, only those youth who really are capable of living on their own will even petition the court. However, the question of how underage people become emancipated and what emancipation means is definitely one of the most asked by both young people and adults. It is a confusing area of juvenile law that should become clearer.

The Act will regulate and standardize the common law practice of removing the disabilities of minority. Alaska Youth Advocates, Inc. supports the passage of HB 402.



*File on 402
with members*

Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

April 18, 1975

Representative Clark Gruening
Pouch V - State Capitol
Juneau, Alaska 99801

Dear Representative Gruening:

I am writing you with regard to HB 402 which was introduced under your sponsorship. This Bill was introduced on 4/9/75 but only came to my attention on 4/17/75.

The Administrative Office of the Courts would like to see some minor changes in this legislation so as to lessen its unnecessary fiscal impact on the Judiciary. Specifically, we would like to see Section 1(e) of the Bill deleted. The reasons for this request are contained in the enclosed memorandum sent to me by the Staff Counsel of the Administrative Office. If you should wish any testimony or further comment from the Administrative Office on our request, we would certainly be glad to comply at your convenience.

Thank you for your consideration in this matter.

Sincerely,

Arthur H. Snowden, II
Administrative Director

AHS/bd
encl.

cc: Hon. Terry Gardiner
Chairman, House Judiciary Committee

Hon. Susan Sullivan
Chairman, House Health, Educa. &
Social Services Committee

Memorandum

Alaska Court System

TO:

Arthur H. Snowden, II
Administrative Director

DATE : April 17, 1975

FROM: Susan Burke
Staff Counsel

SUBJECT: House Bill 402 -- Removal of
disabilities of a minor.

At your request I have reviewed the above Bill. I have no problems with most of the sections. In fact, legislation to provide procedures and standards for emancipation of minors in Alaska is long overdue. I fail to see the necessity, however, for appointment of a guardian ad litem for the minor petitioning for emancipation, particularly cast as it is in mandatory terms. If the purpose of the proceeding is to demonstrate that the minor should be treated legally as an adult for most purposes, it seems anomalous to require the appointment of a person to represent the "best interests" of the minor. A minor who is self supporting and managing his own financial affairs should be able to advance his own best interests in a court proceeding, either alone or represented by private counsel of his choice. In fact, if a guardian ad litem is necessary it would seem to follow that the minor is not ready to be treated legally as an adult.

Further, this is a proceeding instituted at the behest of the child unlike proceedings under the Children's Rules and divorce actions in which the child's interests may be overlooked or inadequately represented because of his inability to understand the nature of the proceedings. While removal of minority disabilities may ease the ability with which an emancipated minor may handle his affairs, in most instances it is hardly a matter of emergency or dire consequences. I would expect also that the largest proportion of these petitions will be uncontested (i.e., consented to by the parents) and the presence of a guardian ad litem will be superfluous.

At the very least the Bill should make appointment of guardian ad litem discretionary with the court. Preferably section (e) should be deleted altogether, as I believe appointment of a guardian ad litem in these proceedings is unnecessary in light of the fact that a minor must be at least 16 and must be living alone, self-supporting, and managing his own financial affairs as a prerequisite to instituting the proceeding.

Finally, as a matter of pleading practice, if the minor must meet the above requirements before being eligible to petition the court, these matters should be pleaded in the petition and proved at a hearing.

SB
SB

:lw

FISCAL NOTE

First Session - Ninth Legislature

file with members

I. REQUEST

Bill No. House Bill 402

Title: Removal Disabilities of a minor

Requested by: Helen Reirne

Date: _____

Return Date Requested: _____

Agency: H&SS, Div. Family & Children Program: _____

II. FISCAL DETAIL

Budget Request Unit(s) Affected: _____

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100 PERSONAL SERVICES		0				
200 TRAVEL		0				
300 CONTRACTUAL		0				
400 COMMODITIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS, ETC.		0				
TOTAL		0				

B. FUNDING: (Thousands of dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER		0				

C. POSITIONS:

PERMANENT/TEMPORARY	/	0 /	/	/	/	/
MAN MONTHS (P./T.)	/	0 /	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

It is usual practice for the petitioner to pay court fees and other related costs. In the case of House Bill No 402, the petitioner is a minor who is self supporting and managing his own financial affairs. The Dept. of Health and Social Services would not be responsible for payment in actions of this type.

IV. ATTACHMENTS

V. DATE: 4-15-75

PREPARED BY: Ada Gleason

Ada Gleason
Assist. Prog. Admin.

Memorandum

Alaska Court System

TO:

Arthur H. Snowden, II
Administrative Director

DATE : April 17, 1975

FROM: Susan Burke
Staff Counsel

SUBJECT: House Bill 402 -- Removal of
disabilities of a minor.

At your request I have reviewed the above Bill. I have no problems with most of the sections. In fact, legislation to provide procedures and standards for emancipation of minors in Alaska is long overdue. I fail to see the necessity, however, for appointment of a guardian ad litem for the minor petitioning for emancipation, particularly cast as it is in mandatory terms. If the purpose of the proceeding is to demonstrate that the minor should be treated legally as an adult for most purposes, it seems anomalous to require the appointment of a person to represent the "best interests" of the minor. A minor who is self supporting and managing his own financial affairs should be able to advance his own best interests in a court proceeding, either alone or represented by private counsel of his choice. In fact, if a guardian ad litem is necessary it would seem to follow that the minor is not ready to be treated legally as an adult.

Further, this is a proceeding instituted at the behest of the child unlike proceedings under the Children's Rules and divorce actions in which the child's interests may be overlooked or inadequately represented because of his inability to understand the nature of the proceedings. While removal of minority disabilities may ease the ability with which an emancipated minor may handle his affairs, in most instances it is hardly a matter of emergency or dire consequences. I would expect also that the largest proportion of these petitions will be uncontested (i.e., consented to by the parents) and the presence of a guardian ad litem will be superfluous.

At the very least the Bill should make appointment of guardian ad litem discretionary with the court. Preferably section (e) should be deleted altogether, as I believe appointment of a guardian ad litem in these proceedings is unnecessary in light of the fact that a minor must be at least 16 and must be living alone, self-supporting, and managing his own financial affairs as a prerequisite to instituting the proceeding.

Finally, as a matter of pleading practice, if the minor must meet the above requirements before being eligible to petition the court, these matters should be pleaded in the petition and proved at a hearing.

SB
SB

:lw



Alaska Court System

State of Alaska

303 "K" STREET

ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

April 18, 1975

Representative Helen D. Beirne
Pouch V - State Capitol
Juneau, Alaska 99801

Dear Representative Beirne:

I am writing you with regard to HB 402 which was introduced under your sponsorship. This Bill was introduced on 4/9/75 but only came to my attention on 4/17/75.

The Administrative Office of the Courts would like to see some minor changes in this legislation so as to lessen its unnecessary fiscal impact on the Judiciary. Specifically, we would like to see Section 1(e) of the Bill deleted. The reasons for this request are contained in the enclosed memorandum sent to me by Staff Counsel of the Administrative Office. If you should wish any testimony or further comment from the Administrative Office on our request, we would certainly be glad to comply at your convenience.

Thank you for your consideration in this matter.

Sincerely,

Arthur H. Snowden, II
Administrative Director

AHS/bd
encl.

cc: Hon. Terry Gardiner
Chairman, House Judiciary Committee

Hon. Susan Sullivan
Chairman, House Health, Edu. & Social
Services Committee

Alaska Youth Advocates, Inc.

1200 EAST 27TH AVENUE PHONE 274-6541
ANCHORAGE, ALASKA 99504

BOARD OF DIRECTORS

ROBT. H WAGSTAFF, PRES
ALAN BRAVERMAN
STEVEN D. CYSEWSKI
H. JOHN DENAULT III
WILLIAM H. JACOBS
J. K. KLEINKAUF
ROBERT MOONEY
SUSAN ROGUSZKA
KEVIN SANDERS

PROGRAM DIRECTORS

SUSAN C. GORDON
MELISSA MIDDLETON

POSITION PAPER ON HB 402

Alaska Youth Advocates, Inc. encourages amending HB 402, "An Act relating to removal of disabilities of a minor," as follows:

1. Page 2, line 11 (Section 1, subsection d): To clarify that only the guardian need consent, not the parents who have been deprived of custody, insert the word "only" between the word "to" and the word "by".

2. Page 2, line 5 (Section 1, subsection d): For clarity, change the phrase "this requirement of consent" to "the requirement of this subsection."

3. Page 2, line 12 (Section 1, subsection g): To clarify the exceptions of this act, change this subsection to read: "Except for the specific statutory and constitutional requirements of voting and drinking, a minor whose disabilities are removed for general purposes has the power and capacity of an adult, including the right to control himself or herself, the right to be domiciled where he or she desires, the right to receive and control his or her earnings, to sue or be sued, and the capacity to contract."

con't

Alaska has no statutory provisions for either complete or partial removal of the disabilities of a minor. Common law prevails. Emancipation, both general and limited, have been petitioned for and granted in Alaska. However, no guidelines exist, no one knows what the removal of disabilities of minority means in Alaska. It is left solely to the court's discretion, on a case by case basis, to determine the requirements for, procedures of, and effect of such removal. This leaves not only the courts, police, and community, but the young people with a legal situation which is basically undefined, and often times misunderstood.

We have seen relatively few young people that are mature and stable enough to live completely on their own. Putting into statute form what is now common law will not open the floodgate -- the requirements are stringent in HB 402, only those youth who really are capable of living on their own will even petition the court. However, the question of how underage people become emancipated and what emancipation means is definitely one of the most asked by both young people and adults. It is a confusing area of juvenile law that should become clearer.

The Act will regulate and standardize the common law practice of removing the disabilities of minority. Alaska Youth Advocates, Inc. supports the passage of HB 402.

HB

416

"An Act relating to abuse of power by certain public officers and employees; and providing for an effective date."

COMMITTEE REPORT

4/14/75

HOUSE

Mr. Speaker:

Date 4/28/75

The Committee on JUDICIARY has had HB 416

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>		_____
<u>[Signature]</u>		_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

A M E N D M E N T

OFFERED IN THE HOUSE:

By: House Judiciary Committee

To: _____ HOUSE BILL No. HB 416

SENATE BILL No. _____

PAGE: 1

LINE: 20

after "duties" delete the comma and insert: other than giving sworn testimony or evidence in a legal proceeding,

Introduced: 4/14/75
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 416

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to abuse of power by certain public
7 officers and employees; and providing for an effective
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 39 is amended by adding a new chapter to read:

11 CHAPTER 51. ABUSE OF POWER BY PUBLIC

12 OFFICERS AND EMPLOYEES.

13 Sec. 39.51.010. MISUSE OF CONFIDENTIAL INFORMATION. A person who
14 is or has been an employee of the Department of Law, the Department of
15 Public Safety, a municipal police force, or any other state or local
16 agency which keeps or has access to confidential information pertaining
17 to citizens of the state, and through his employment learns confidential
18 information about a citizen of the state and who, while in office or
19 after leaving office, uses the information for personal gain or in a
20 manner not connected with the performance of his official duties, is
21 guilty of a misdemeanor and upon conviction is punishable by imprison-
22 ment for not more than one year, or by a fine of not more than \$5,000,
23 or by both. As used in this section "confidential information" means
24 information which is not available to citizens of the state through open
25 inquiry to the agency possessing the information.

26 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
27 070(c).
28
29

ABUSE OF POWER EXAMPLES

1. Watergate
2. Social worker sees files of juvenile, makes notes, later uses them against the adult for blackmail.
3. Police misusing investigation files.
4. Dick Bradley deal

107

House Judiciary Committee
April 24, 1975

HB 384 Evaluation of Judges

This bill was being held one legislative day for further consideration on the floor. Mr. Brown prepared amendments and submitted them to the committee in the form of a CS. It was agreed that the amendments would be submitted on the floor as by the Judiciary Committee.

SB 290 Rent Control

The committee reviewed the prepared CS and approved it.

HB 416 Abuse of Power

Pat Wellington of Public Safety testified that the Department was in favor of the concept but that the bill was open to possible abuse in that the officers and police departments might be subject to harassment. He suggested adding the language that if a false report is knowingly made, there is a penalty. The committee mentioned that CS SB 167, also in Judiciary, would cover this problem. Mr. Wellington agreed and said that CS SB 167 was approved by the Department.

Mr. Brown moved on line 20: after duties add: other than giving sworn testimony or evidence in a legal proceeding. The amendment passed.

Mr. Hanley of the Attorney General's Office testified that they supported HB 416.

HB 417 Intelligence Information

Mr. Wellington stated that it has been a historical function of the police to gather intelligence information. It is disseminated on a need to know basis. He knows of no abuse of this in Alaska. He felt that the bill would give the commission an almost impossible task in drawing up the regs. He agreed that there was a need to protect the public and that perhaps the Department should be required to provide further justification before gathering information on a person. He felt that in general the bill would hinder the police. There is a legitimate need to keep files on some people to protect the public in general.

Mr. Hanley stated that the Attorney General supports the bill. He felt it would provide guidelines within which the Department could collect information. He stated that the commission is very representative and that they have already adopted the AJIS regulations.

107
House Judiciary Committee
April 28, 1975

The meeting was called to order at 1:25 p.m. by Chairman Gardiner. All members were present except Mr. Eliason.

SB 99 Public Records

The committee reviewed the proposed CS by the Judiciary Committee which put section 2 in title 11 and incorporated material relating to the Ombudsman. Mr. Brown moved the Judiciary CS CS SB 99 do pass. There being no objection, it was so ordered.

SB 167 False reports

Mr. Brown moved SB 167 out do pass since it had been determined that it was in the correct title.

HB 418 Conflict of Interest

The committee reviewed the proposed CS by the Judiciary Committee which cleans up the problem of "members of municipal bodies" and "special" elections.

Mr. Parr raised the question on page 1, line 26 as to whether "legislative" only applied to state level or whether it could be interpreted to include municipal level. Mr. Walker stated that it could be open to interpretation. The committee requested Mr. Walker to draw up additional language to the effect that legislative related to matters before the state government.

HB 416 Abuse of power

Since the bill was determined to be in the correct title, Mr. Brown moved HB 416 out of committee as amended. There being no objection, it was so ordered.

HB 417 Intelligence Information

Mr. Brown moved HB 417 out of committee. There being no objection, it was so ordered.

CS SCR 5 Criminal Code

Mr. Brown moved this bill out of committee as it was the same as a bill already acted on by the committee. Mr. Gardiner mentioned the possibility of getting a LEAA grant for the study to be matched by state funds.

HB

417

COMMITTEE REPORT

4/15/75

HOUSE

Mr. Speaker:

Date

4/23/75

The Committee on JUDICIARY has had HB 417

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____

Members NOT concurring in the Majority report:

<u>[Signature]</u>	recommends: <u>no rec</u>
_____	recommends:
_____	recommends:
_____	recommends:
_____	recommends:

[Signature] Chairman

Terry Gardiner

*file
HB 417*

Box 1092, Ketchikan, Alaska 99901 Pouch V, Juneau, Alaska 99811

May 19, 1976

Avrum Gross, Attorney General
Pouch K
Juneau, Alaska

Dear Av,

This letter relates to the implementation of HB 417 which has now become law. The responsibility of developing standards and regulations to implement HB 417 rests with the Governor's Commission on Criminal Justice. Hence as chairman of the Governor's Commission, I am sending you the following suggestions.

I have been contacted by Mr. Craig Cornish who works with the law firm of Wagstaff and Middleton. Evidently Mr. Cornish has had a long standing interest in the subject area of criminal intelligence information. I am enclosing a copy of an outline that he suggests might be utilized by the Governor's Commission in implementing HB 417. If the Governor's Commission finds it necessary to hire or contract with someone to do research and draw up regulations for this criminal intelligence project, Mr. Cornish might be an ideal candidate here in Alaska.

Mr. Michael Rubenstein, Executive Director of the Alaska Judicial Council has also expressed interest to me in the possibility of his office being involved in the implementation of HB 417. As a member of the Legislature I have been very pleased with some of the recent studies and efforts of the Alaska Judicial Council in the criminal justice area. If the Governor's Commission should decide that some amount of study needs to be done before regulations are drawn up concerning criminal intelligence information in Alaska the Judicial Council might be a good source to conduct such a study.

These are merely some suggestions that I wanted to pass on to you now that the legislation has passed and is turned over to the administration for implementation. I would appreciate it if you would have the staff of the Governor's Commission on Criminal Justice keep me informed as to the progress made in the next year on the implementation of HB 417.

Sincerely,

Terry Gardiner

*Wagstaff & Middleton
Lawyers*

May 4, 1976

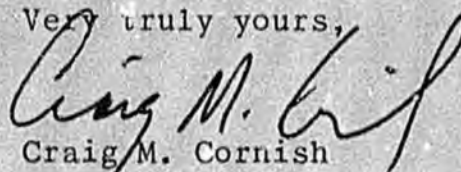
Terry Gardiner
House Judiciary Committee
Alaska Legislature
Pouch V
Juneau, Alaska 99801

Dear Terry,

Enclosed is my suggested outline for the Governor's Commission's study directed by HB 417.

It is also my suggestion that due to the seriousness of the subject matter and the divergent interests in law enforcement and privacy, that an agency or person independent of the law enforcement field conduct the study. I am very much interested in doing the study. Another possibility is the Judicial Council.

Very truly yours,


Craig M. Cornish

Enclosure

CMC/n

ISSUES

I. Choosing Methods For Analyzing Privacy Issues.

Virtually every privacy problem involves resolution of conflicting values: *the interests of the state in obtaining and using certain kinds of information about individuals versus the interests of individuals in preserving the confidentiality of such information.

- A. Balancing Test: Weigh competing interests.
- B. Fundamental Rights: Some privacy interests are fundamental and should require a substantial law enforcement interest to override the citizens' interest in retaining control over information about themselves.
- C. Other Tests:

II. Issues Facing The Commission

- A. What Kinds of Intelligence Information Should Law Enforcement Agencies Gather? This focuses upon genre of information. In order to answer the question, research in the following matters should be presented to the Commission:
 - 1. What kinds of information are law enforcement agencies in Alaska now gathering and will be gathering in the foreseeable future?
 - 2. Case and statutory law on kinds of intelligence information law enforcement agencies are permitted to

* But the legislature has an unqualified constitutional duty to implement privacy protections, see Article I, Sec. 22 of Alaska Constitution.

gather. What is the present generic scope on the federal level? In other states?

3. What does the public believe to be the proper kind of information which may be gathered by Alaskan law enforcement agencies? (To be achieved through a public opinion poll of Alaska residents*)
4. Recommendation.
5. Implementation.
 - a) Regulation
 - b) Statute

B. For What Purposes Should Law Enforcement Agencies Be Allowed To Collect Intelligence Information? This issue focuses upon the reasons underlying intelligence gathering.

1. Why are Alaskan law enforcement agencies currently collecting intelligence information?
2. What case and statutory law presently exist on the legitimate purpose of law enforcement collection of intelligence?
3. For what purposes is the public willing to permit the collection of law enforcement intelligence?

* I have received an estimate from an opinion research group on the cost of conducting a public opinion poll on the question relative to this study. For \$7,500.00 we would receive a 60 - 70 question survey of 300 - 350 households encompassing 20 communities which would be accurate with a 3% margin of error.

4. Recommendation.
5. Implementation.
 - a) Legislation.
 - b) Regulation.

C. What Methods May Law Enforcement Agencies Properly

Use To Collect Intelligence Information? Wiretapping, aerial surveillance, etc.

1. What methods are currently used by Alaskan law enforcement agencies to collect intelligence information?
2. What case and statutory law presently exist on the permissible methods which law enforcement agencies may use to collect intelligence?
3. What methods for collection of law enforcement intelligence are supported by Alaskan public opinion.
4. Recommendation.
5. Implementation.
 - a) Legislation.
 - b) Regulation.

D. How Should Intelligence Information Be Properly Safeguarded?

This involves structural checks to insure compliance with the regulations governing the flow of intelligence data.

1. What are current procedures Alaskan law enforcement agencies use to safeguard intelligence information?

2. What standard of care should be imposed on law enforcement agencies in the safeguarding of intelligence information?
3. Recommendation.
4. Implementation.
 - a) Legislation.
 - b) Regulation.

E. Who Should Have Access to Law Enforcement Intelligence Information? This focuses upon both the right of the citizen to have access to information about himself, and, to whom it may be disseminated.

1. What rights do citizens presently have to inspect their own intelligence files.
2. To whom is intelligence data presently disseminated?
3. What case and statutory law presently exist to govern both citizen access to their own files and to whom such information may be released?
4. What kind of access to law enforcement intelligence does the public desire?
5. Recommendation.
6. Implementation.
 - a) Legislation.
 - b) Regulation.

F. How Should Law Enforcement Intelligence Information Be Kept Accurate? This focuses upon ensuring the accuracy of the information maintained, as opposed to guarding against leaks as in subsection D above.

1. What current methods are used by Alaskan law enforcement agencies to keep law enforcement intelligence accurate?
2. What present case and statutory law exist on the duty of law enforcement to maintain accurate intelligence data?
3. What methods for maintaining accuracy of law enforcement intelligence does the Alaskan public support?
4. Recommendation.
5. Implementation.
 - a) Legislation.
 - b) Regulation.

Introduced: 4/15/75
Referred: Judiciary

1 IN THE HOUSE

BY GARDINER

2 HOUSE BILL NO. 417

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to law enforcement intelligence
7 information."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 12.62.010 is amended by adding a new subsection to read:

10 (b) In addition to regulations adopted under (a) of this section,
11 the commission shall, after appropriate consultation with representatives
12 of state and local law enforcement agencies, adopt regulations and pro-
13 cedures governing the gathering of intelligence information and the
14 storage, security, and privacy of the intelligence information collected
15 and maintained by law enforcement agencies in the state. The notice and
16 hearing requirements of the Administrative Procedure Act (AS 44.62),
17 relating to the adoption of regulations, apply to regulations adopted
18 under this subsection. In adopting these regulations, the commission
19 shall take into account both the interest of law enforcement agencies in
20 maintaining the ability to conduct intelligence operations and each
21 individual's right to privacy.

22 * Sec. 2. AS 12.62 is amended by adding new sections to read:

23 Sec. 12.62.015. COLLECTION AND SECURITY OF INTELLIGENCE INFORMA-
24 TION. (a) Regulations of the commission, adopted under sec. 10(b) of
25 this chapter, shall include requirements and guidelines concerning the
26 categories of intelligence information which may be gathered by law
27 enforcement agencies in the state, the purposes for which intelligence
28 information may be collected, and the methods and procedures which may
29 be used in collecting intelligence information.

1 (b) The commission's regulations adopted under sec. 10(b) of this
2 chapter shall establish standards for the confidentiality and security
3 of intelligence information and provide for controls, access to and
4 dissemination of intelligence information, and methods for updating,
5 correcting and purging intelligence information while maintaining the
6 security and confidentiality of the information.

7 Sec. 12.62.017. ANNUAL REPORT TO COMMISSION. The chief officer
8 of each ^{State or Municipal} law enforcement agency shall submit an annual report to the
9 commission, in the form required by the commission, certifying compliance
10 by the agency with the regulations adopted by the commission under
11 sec. 10(b) of this chapter.

12 * Sec. 3. AS 12.62.060 is amended to read:

13 Sec. 12.62.060. CIVIL AND CRIMINAL REMEDIES. (a) A person with
14 respect to whom criminal justice information has been wilfully main-
15 tained, disseminated, or used, or intelligence information has been
16 collected, obtained or used, in violation of this chapter has a civil
17 cause of action against the person responsible for the violation and
18 shall be entitled to recover actual damages and reasonable attorney fees
19 and other reasonable litigation costs.

20 (b) A person who wilfully disseminates or uses criminal justice
21 information knowing such dissemination or use to be in violation of
22 this chapter, or who knowingly collects, obtains or uses intelligence
23 information in violation of this chapter, upon conviction, is punishable
24 by a fine of not more than \$1,000 or by imprisonment for not more than
25 one year, or by both.

26 (c) A good faith reliance upon the provisions of this chapter or
27 of applicable law governing maintenance, dissemination, or use of
28 criminal justice information, or upon rules, regulations, or procedures
29 prescribed under this chapter is a ~~complete~~ defense to a civil or

1 criminal action brought under this chapter.

2 * Sec. 4. AS 12.62.070 is amended by adding a new paragraph to read:

3 (7) "intelligence information" means information concerning
4 the background, activities or associations of an individual or group
5 collected or obtained by a law enforcement agency for preventive,
6 precautionary or general investigative purposes not directly connected
7 with the investigation of a specific crime which has been committed ~~or~~ *not with*
8 the apprehension of a specific person in connection with the commission
9 of a particular crime.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

#

HB 417 extends the authority of the Governor's Commission on the Administration of Justice to make regulations for "intelligence activities" by law enforcement personnel, similar to what was already done with the AJIS System. The proposed bill would regulate local law enforcement agencies as well as state agencies.

Standards do exist for the Commission to work with. An LEAA funded project, "the National Commission on Standards and Goals" has developed standards for all phases of the criminal justice system, including police work. In their publication, POLICE, exist several standards relating to intelligence. In addition, various regulations adopted by the Governor's Commission for the AJIS system will be applicable to the new regulations for intelligence activities.

The proposed bill sets up a useable definition of intelligence activities. It sets out specific goals for the Commission to accomplish. To regulate and establish:

1. categories of intelligence information which may be gathered by law enforcement agencies in the state;
2. those purposes for which intelligence information may be collected;
3. the methods and procedures which may be used in collecting intelligence information;
4. standards for the confidentiality and security of intelligence information;
5. standards for controls; access to and dissemination of intelligence information;
6. methods for updating, correcting and purging intelligence information.

The Governor's Commission is a good, well-balanced body to accomplish this task. Among its members are: the Attorney General, the Chief Justice of the Supreme Court, the Commissioner of Public Safety, two legislators, and other members of the criminal justice system. The legislature will have an opportunity to review any regulations that the Commission comes up with; and in addition, public hearings will be held. The law specifically states that the interests of law enforcement agencies in maintaining the ability to conduct intelligence operations will be taken into account.

The law is needed in order to define limits to this type of activity, to establish clear guidelines for the activities of law enforcement authorities, and to raise the standards of law enforcement efforts statewide.

(1) The collection of intelligence information by law enforcement agencies has been an ongoing activity for many years. This activity does not specifically relate to any information gained through the investigation of specific crimes, but is general background activity or association information of groups or individuals collected for the general information of the law enforcement agencies. This general information is used to keep law enforcement agencies informed on alleged potential criminal activities by these individuals or groups. Unfortunately, this information is not ever reviewed by the other agency except the law enforcement agency collecting the information. It is subject to abuse.

(2) In this day and age of computer retrieval of information, the efficiency with which this information can now be collected and retained through the use of modern computerized storage and retrieval methods makes it more easily subject to unlawful or unauthorized use by individuals through the dissemination of this readily retrievable information to individuals outside the law enforcement community.

(3) The voters of this State adopted a Right to Privacy amendment. This indicates a strong belief on the part of the people of this State that their right to privacy be protected and not infringed through activities, however well meaning, that may tend to reduce the level of privacy enjoyed by the citizens of this State. HB 417 is another step in the process of the legislative implementation of this amendment.

The bill itself designates the Governor's Commission on the Administration of Justice as the agency to promulgate the regulations and procedures governing the gathering storage, security and privacy of the intelligence information collected. The Governor's

Commission is a broadly based representative group of all agencies involved in law enforcement such as the police, prosecution, judiciary, defense attorneys, corrections and rehabilitative personnel and members of the public at large. Such a broadly based group has already successfully implemented the regulations governing the collection and dissemination of justice information for use by all of the criminal justice agencies. They already have experience in balancing the various interests involved in

such an undertaking. Such a broadly based group is imminently qualified to promulgate regulations which would duly reflect the concern for security by the law enforcement agencies collecting this information and the protection of the rights of the individuals not specifically being investigated for the commission of crimes, but for one reason or another may be considered subject to the collection of intelligence information on their background activities or associations.

Governor's Commission on Administration
of Justice

1. Av Gross - AG
2. Dick Burton - P. S.
3. Francis L. Williamson - HESS
4. Jay Rabinowitz - S. C.
5. Herb Soll - D. A.
6. Glenn Hackney - 2 Legis. 1
7. John Rader
8. Capt Charles Anderson - Police Officer
9. Nora Guinn - citizen

House Judiciary Committee
April 24, 1975

HB 384 Evaluation of Judges

This bill was being held one legislative day for further consideration on the floor. Mr. Brown prepared amendments and submitted them to the committee in the form of a CS. It was agreed that the amendments would be submitted on the floor as by the Judiciary Committee.

SB 290 Rent Control

The committee reviewed the prepared CS and approved it.

HB 416 Abuse of Power

Pat Wellington of Public Safety testified that the Department was in favor of the concept but that the bill was open to possible abuse in that the officers and police departments might be subject to harassment. He suggested adding the language that if a false report is knowingly made, there is a penalty. The committee mentioned that CS SB 167, also in Judiciary, would cover this problem. Mr. Wellington agreed and said that CS SB 167 was approved by the Department.

Mr. Brown moved on line 20: after duties add: other than giving sworn testimony or evidence in a legal proceeding. The amendment passed.

Mr. Hanley of the Attorney General's Office testified that they supported HB 416.

HB 417 Intelligence Information

Mr. Wellington stated that it has been a historical function of the police to gather intelligence information. It is disseminated on a need to know basis. He knows of no abuse of this in Alaska. He felt that the bill would give the commission an almost impossible task in drawing up the regs. He agreed that there was a need to protect the public and that perhaps the Department should be required to provide further justification before gathering information on a person. He felt that in general the bill would hinder the police. There is a legitimate need to keep files on some people to protect the public in general.

Mr. Hanley stated that the Attorney General supports the bill. He felt it would provide guidelines within which the Department could collect information. He stated that the commission is very representative and that they have already adopted the AJIS regulations.

House Judiciary Committee
April 28, 1975

The meeting was called to order at 1:25 p.m. by Chairman Gardiner. All members were present except Mr. Eliason.

SB 99 Public Records

The committee reviewed the proposed CS by the Judiciary Committee which put section 2 in title 11 and incorporated material relating to the Ombudsman. Mr. Brown moved the Judiciary CS SB 99 do pass. There being no objection, it was so ordered.

SB 167 False reports

Mr. Brown moved SB 167 out do pass since it had been determined that it was in the correct title.

HB 418 Conflict of Interest

The committee reviewed the proposed CS by the Judiciary Committee which cleans up the problem of "members of municipal bodies" and "special" elections.

Mr. Parr raised the question on page 1, line 26 as to whether "legislative" only applied to state level or whether it could be interpreted to include municipal level. Mr. Walker stated that it could be open to interpretation. The committee requested Mr. Walker to draw up additional language to the effect that legislative related to matters before the state government.

HB 416 Abuse of power

Since the bill was determined to be in the correct title, Mr. Brown moved HB 416 out of committee as amended. There being no objection, it was so ordered.

HB 417 Intelligence Information

Mr. Brown moved HB 417 out of committee. There being no objection, it was so ordered.

CS SCR 5 Criminal Code

Mr. Brown moved this bill out of committee as it was the same as a bill already acted on by the committee. Mr. Gardiner mentioned the possibility of getting a LEAA grant for the study to be matched by state funds.

HB 417 extends the authority of the Governor's Commission on the Administration of Justice to make regulations for "intelligence activities" by law enforcement personnel, similar to what was already done with the AJIS System. The proposed bill would regulate local law enforcement agencies as well as state agencies.

Standards do exist for the Commission to work with. An LEAA funded project, "the National Commission on Standards and Goals" has developed standards for all phases of the criminal justice system, including police work. In their publication, POLICE, exist several standards relating to intelligence. In addition, various regulations adopted by the Governor's Commission for the AJIS system will be applicable to the new regulations for intelligence activities.

The proposed bill sets up a useable definition of intelligence activities. It sets out specific goals for the Commission to accomplish. To regulate and establish:

1. categories of intelligence information which may be gathered by law enforcement agencies in the state;
2. those purposes for which intelligence information may be collected;
3. the methods and procedures which may be used in collecting intelligence information;
4. standards for the confidentiality and security of intelligence information;
5. standards for controls; access to and dissemination of intelligence information;
6. methods for updating, correcting and purging intelligence information.

The Governor's Commission is a good, well-balanced body to accomplish this task. Among its members are: the Attorney General, the Chief Justice of the Supreme Court, the Commissioner of Public Safety, two legislators, and other members of the criminal justice system. The legislature will have an opportunity to review any regulations that the Commission comes up with; and in addition, public hearings will be held. The law specifically states that the interests of law enforcement agencies in maintaining the ability to conduct intelligence operations will be taken into account.

The law is needed in order to define limits to this type of activity, to establish clear guidelines for the activities of law enforcement authorities, and to raise the standards of law enforcement efforts statewide.

Background:

(1) The collection of intelligence information by law enforcement agencies has been an ongoing activity for many years. This activity does not specifically relate to any information gained through the investigation of specific crimes, but is general background activity or association information of groups or individuals collected for the general information of the law enforcement agencies. This general information is used to keep law enforcement agencies informed on alleged potential criminal activities by these individuals or groups. Unfortunately, this information is not ever reviewed by the other agency except the law enforcement agency collecting the information. It is subject to abuse.

(2) In this day and age of computer retrieval of information, the efficiency with which this information can now be collected and retained through the use of modern computerized storage and retrieval methods makes it more easily subject to unlawful or unauthorized use by individuals through the dissemination of this readily retrievable information to individuals outside the law enforcement community.

(3) The voters of this State adopted a Right to Privacy amendment. This indicates a strong belief on the part of the people of this State that their right to privacy be protected and not infringed through activities, however well meaning, that may tend to reduce the level of privacy enjoyed by the citizens of this State. HB 417 is another step in the process of the legislative implementation of this amendment.

The bill itself designates the Governor's Commission on the Administration of Justice as the agency to promulgate the regulations and procedures governing the gathering storage, security and privacy of the intelligence information collected. The Governor's Commission is a broadly based representative group of all agencies involved in law enforcement such as the police, prosecution, judiciary, defense attorneys, corrections and rehabilitative personnel and members of the public at large. Such a broadly based group has already successfully implemented the regulations governing the collection and dissemination of justice information for use by all of the criminal justice agencies. They already have experience in balancing the various interests involved in such an undertaking. Such a broadly based group is imminently qualified to promulgate regulations which would duly reflect the concern for security by the law enforcement agencies collecting this information and the protection of the rights of the individuals not specifically being investigated for the commission of crimes, but for one reason or another may be considered subject to the collection of intelligence information on their background activities or associations.

MEMORANDUM

To: Terry Gardiner

From: Jamie Love

Date: May 4, 1975

RE: HB 417; Law enforcement
intelligence information

HB 417 extends the authority of the Governor's Commission on the Administration of Justice to make regulations for "intelligence activities" by law enforcement personnel, similar to what was already done with the AJIS System. The proposed bill would regulate local law enforcement agencies as well as state agencies. ~~It would probably be the first attempt at regulation of this type in the country. To my knowledge, no other state has attempted to define and regulate activities defined as "intelligence information" in this bill. It is quite possible that Alaska will become a model for other states. It is a rather new concept; original as far as I know.~~

Standards do exist for the Commission to work with. An LEAA funded project, "the National Commission on Standards and Goals" has developed standards for all phases of the criminal justice system, including police work. In their publication, POLICE, exist several standards relating to intelligence. In addition, various regulations adopted by the Governor's Commission for the AJIS System will be applicable to the new regulations for intelligence activities.

The proposed bill sets up a useable definition of intelligence activities. It sets out specific goals for the Commission to accomplish. To regulate and establish:

- 1) categories of intelligence information which may be gathered by law enforcement agencies in the state
- 2) those purposes for which intelligence information may be collected
- 3) the methods and procedures which may be used in collecting intelligence information
- 4) standards for the confidentiality and security of intelligence information
- 5) standards for controls: access to and dissemination of intelligence information
- 6) methods for updating, correcting and purging intelligence information

The Governor's Commission is a good, well-balanced body to accomplish this task. Among its members are: the Attorney General, the Chief Justice of the Supreme Court, the Commissioner of Public Safety, two legislators, and other members of the criminal justice system. The legislature will have an opportunity to review any regulations that the Commission comes up with; and in addition, public hearings will be held. The law specifically states that the interests of law enforcement agencies in maintaining the ability to conduct intelligence operations will be taken into account.

The law is needed in order to define limits to this type of activity, to establish clear guidelines for the activities of law enforcement authorities, and to raise the standards of law enforcement efforts statewide.

H B

4 1 8

House Judiciary Committee
April 23, 1975

The meeting was called to order at 1:25 by Chairman Gardiner. All members were present.

SB 266 Motor Vehicles

Charlie Smith of the Department of Public Safety testified that at present various agencies serve intra related motor vehicle functions. SB 266 would consolidate these functions under the Department of Public Safety and is expected to produce a fiscal savings of \$30,000 in FY 77. Initially the transfer will cost \$10,000 to reclassify employees and relocate some facilities. Employees of other departments will become employees of Public Safety.

Mr. Specking moved SB 266 out of committee do pass. There being no objection, it was so ordered.

HB 276 Real Estate Appraisers

The committee discussed the need to protect the public vs. the profession's need to protect themselves. Since there had been no public input regarding a problem, Mr. Specking moved to hold the bill until next year. Mr. Brown objected. On vote, the committee decided to hold the bill but to prepare all the latest suggestions into another proposed CS to be ready to consider at that time.

HB 418 Conflict of Interest

Mr. Walker stated that the language "general election" is defined in statute to mean only the November election. This bill would include "regular" elections (annual municipal elections) or special elections.

Mr. Eliason moved in line 14 to delete "called for that purpose" since it was possible that a special election would be called for another purpose but the subject of conflict of interest could be considered. The amendment passed.

Mr. Walker brought up a problem with HB 390 which is now on the Governor's desk. "Members of municipal bodies" was the language used to provide a further exemption. These people (this language) was not in the original bill so Mr. Walker felt that by exempting them the bill impliedly included them in the rest of the bill. There is no definition for who a member of a municipal body is. The committee requested that Mr. Walker draw up a CS for HB 148 which would include Mr. Eliason's amendment and would correct the problem in HB 390. The committee would consider the CS when prepared.

109
House Judiciary Committee
April 28, 1975

The meeting was called to order at 1 p.m. by Chairman Gardiner. All members were present except Mr. Eliason.

SB 99 Public Records

The committee reviewed the proposed CS by the Judiciary Committee which put section 2 in title 11 and incorporated material relating to the Ombudsman. Mr. Brown moved the Judiciary CS SB 99 do pass. There being no objection, it was so ordered.

SB 167 False reports

Mr. Brown moved SB 167 out do pass since it had been determined that it was in the correct title.

HB 418 Conflict of Interest

The committee reviewed the proposed CS by the Judiciary Committee which cleans up the problem of "members of municipal bodies" and "special" elections.

Mr. Parr raised the question on page 1, line 26 as to whether "legislative" only applied to state level or whether it could be interpreted to include municipal level. Mr. Walker stated that it could be open to interpretation. The committee requested Mr. Walker to draw up additional language to the effect that legislative related to matters before the state government.

HB 416 Abuse of power

Since the bill was determined to be in the correct title, Mr. Brown moved HB 416 out of committee as amended. There being no objection, it was so ordered.

HB 417 Intelligence Information

Mr. Brown moved HB 417 out of committee. There being no objection, it was so ordered.

CS SCR 5 Criminal Code

Mr. Brown moved this bill out of committee as it was the same as a bill already acted on by the committee. Mr. Gardiner mentioned the possibility of getting a LEAA grant for the study to be matched by state funds.

134

House Judiciary Committee
May 12, 1975

The meeting was called to order at 1:20 p.m. by Chairman Gardiner.
All members were present.

CS HB 418 Conflict of Interest

Mr. Walker explained the new CS stating that it takes care of the committee's concerns about members of a municipal body. Mr. Hanley of the Attorney General's Office agreed that the proposed CS solves the problem created by the earlier legislation. Mr. Bradley moved the Judiciary CS HB 418 out of committee. There being no objection, it was so ordered.

SB 302 Convicts/weapons

Mr. Turnbull explained that the proposed language from the Attorney General's office clears up the vague problem in lines 10 and 11 and the committee's problem with section (c). The Judiciary CS was moved out of committee.

SB 113 Health Care Information

This bill fulfills a federal requirement which will enable the state to receive medicade money -- that of a professional staff review. The bill stipulates those situations under which the person affected cannot sue and which records must be kept confidential.

Senator Ziegler testified that 030 provides adequate safeguards for someone who feels that he didn't receive a fair hearing. Only the actual minutes of the hearing are to be kept confidential.

Mr. Brown moved on page 2, line 4: change punctuation and add except as provided in this section, all
line 8: except as provided in this section, all
line 11: organization and the proceeding
line 23: hearings, except as provided in this section Testimony, documents, proceedings, records and other evidence adduced before a review organization that are otherwise inaccessible under this section, may be obtained under subpoena for discovery proceedings brought by a plaintiff who claims that information provided to a review organization was false and that the person providing the information knew or had reason to believe that the information was false.
These amendments passed in substance. The committee requested that a CS be prepared for their review.

SB 202 Malicious mischief

The repealers are covered under the bill's definition of real or personal property. They included mostly misdemeanor penalties which, according to the bill, will be dependent upon the value of the property.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

April 5, 1975

MEMORANDUM

TO: Representative Terry Gardiner
FROM: David T. Walker, Legislative Counsel
SUBJECT: Bill relating to conflicts of interest

Mr. Mike Miller requested this bill. It would allow municipal officers to give legislative advice and legislative assistance for fees. It would also allow municipal officers to represent clients before state agencies. If it is the legislature's wish to authorize this practice for municipal officers (as it has for members of state commissions and boards), then the bill should be enacted as soon as possible.

NOTE:

Sec. 39.50.145 enacted by HCS CSSB 62 am H (conflicts of interest) allows municipalities to exempt its officers from the requirement of the Act if a majority of the voters at a "general election" vote to exempt them. This language may cause difficulties in that the only definition I can find of general election is found in AS 15.60.010(10):

(10) "general election" means the election held on the Tuesday after the first Monday in November of even-numbered years;

Local elections are defined by (2):

(2) "local election" means any election held by a borough, city, or other local unit of government;

Special elections are defined by (22):

(22) "special election" means any election held at a time other than when the general or party primary election is held and any election called to be held with, and at the time of, the general or party primary election;

Within the municipal code, AS 29.78.010 defines municipal elections and regular elections:

(7) "municipal election" includes but is not limited to elections to choose city councilmen, borough assemblymen, school board members, and utility board members;

(14) "regular election" means the municipal election held on the first Tuesday of October annually, or on an election date or at an interval of years provided by ordinance;

Whatever term is used, I recommend that the section be amended to include a statutory cross-reference (i.e., local election as defined by AS 15.60.010(2)). You may wish to consider this problem in the bill attached to this memo -- but you have more time to consider the problem addressed by this note than the one addressed by the bill.

DTW/sm

SSHB

432

COMMITTEE REPORT

4/30/75

HOUSE

FINANCE

Mr. Speaker:

Date 5/15/75

The Committee on JUDICIARY has had SSHP 432

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR SS HC 432 AND THAT

CS FOR SS HC 432 DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

[Signature] _____

[Signature] _____

Members NOT concurring in the Majority report:

[Signature] recommends: [Signature]

[Signature] recommends: [Signature]

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

Thurs Dec 19, 1974 vol 39 Number 245 page 43940
Subsection (7)

Monday Jan 18, 1975 vol 40 Number 33
page 7000



From the Desk of

REPRESENTATIVE TERRY GARDINER

May 15, 1975

TO: Finance Committee

The attached was received from the Department after the Judiciary Committee had acted on this bill. Perhaps you would like to consider it in your deliberations on HB 432.

POSITION PAPER
ON
HOUSE BILL 432
(Sponsor Substitute for)

An act relating to child protection.

The Department of Health and Social Services recommends that Section 47.17.065 Counseling and Information Grants be rewritten to read as follows: (a) The department may provide funds to private or public non-profit community service agencies and hospitals in the state for professional counseling services to parents. The funds may also be used by the agencies to provide information to the community concerning the problems of child abuse and the help available in the state for abused children and their families. Funds appropriated under this section may be used as the state or local contribution for obtaining federal funds under the Child Abuse Treatment and Prevention Act (P.L. 93-247).

House Bill 432 presumes that funds will be allocated to the Department of Health and Social Services for grants. It appears to be an unnecessary step to involve the Office of Child Advocacy when House Bill 432 mandates the Department of Health and Social Services to take specific action.

There is no additional cost to the State of Alaska.

The Department supports the Bill with changes recommended above.

Recommended By: Freda M. Borchick 5-8-75
Freda M. Borchick Date
Acting Director

Approved By: Francis S.L. Williamson 5/8/75
Francis S.L. Williamson Date
Commissioner

Comments by Governor's Office:

By: _____ Date _____