

ALASKA LEGISLATURE COMMITTEE FILES 1981 - 1982 86 / 2

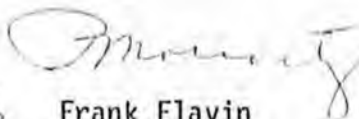
2060 SSA SB 90 - SB 93

January 28, 1981

same Assistant Attorney General argues that despite the absence of current statutory language allowing the keeper of a record to inquire as to its possible use, the Attorney General's office has taken the position that right of privacy takes precedence over freedom of information. "When the two come in conflict, the keeper of the records can facilitate or cause a person's privacy to be invaded only to the extent that a legitimate public interest requires it." He concludes that the release of motor vehicle registration information is generally "harmless," since "persons requesting the information will have an interest sufficient to justify the information's release..." Absent "any pattern of misuse of information or any serious or persistent problem," the opinion finds that "the statute controls" and the information is public. "We do not believe that...administrators have the authority to carve out their own exceptions from the statutory dictates of AS 09.25.110." Yet this is exactly what he has advised the Department of Community and Regional Affairs and the Division of Retirement and Benefits to do in the previously cited opinions.

We expect ultimate resolution of these differing interpretations to come through litigation, perhaps to be facilitated by the simplified civil procedures in SB 90. They are brought to your attention as a reminder of just how gray the "right to privacy" area is and, therefore, how subject to individual interpretation the sections in SB 90 which use this language will be.

Sincerely,


for Frank Flavin
Ombudsman

Attachment

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99511

JAY S. HAMMOND, GOVERNOR

July 31, 1978

Mr. Francis M. Flavin, Ombudsman
540 'K' Street, Suite 203
Anchorage, Alaska 99501

Re: Ombudsman Complaint
#A78-0655 (license
plate information)
Our File: J-66-787-78

Dear Mr. Flavin:

Your letter to the Attorney General on this matter has been referred to me for reply. The issue presented is whether the adoption of the Privacy Amendment to the Alaska Constitution, art. I, § 22, impliedly amended AS 09.25.110. */

Often called the Alaska Freedom of Information Act, AS 09.25.110 **/ provides generally that, absent a "specific" dictate to the contrary, all public records are open to public inspection and copying. Nothing in the section requires (or

*/ A threshold question is whether AS 44.23.020 allows the Attorney General to provide the Ombudsman with legal advice. We believe that, as an agency of the legislature, AS 24.55.110, the Office of Ombudsman is entitled to a written legal opinion under AS 44.33.020(b)(4). Even in the absence of that statute, the Attorney General's common law powers would appear to authorize the opinion. Public Defender Agency v. Super. Ct., 1st Jud. Dist., 534 P.2d 947 (Alaska 1975).

**/ The section reads as follows:

Sec. 09.25.110. INSPECTION AND COPIES OF PUBLIC RECORDS. Unless specifically provided otherwise the books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of costs a certified copy of the public record.

Francis M. Flavin, Ombudsman
Anchorage, Alaska

July 31, 1978

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even authorizes) the keeper of the records to inquire into the bona fides of the request for a record or other information. Nothing in the section allows the keeper of the records to reject a request simply because he doubts that it is legitimate or even if he is convinced on the basis of the information available to him that the request is illegitimate. The statute is Kantian in its dictate. If a rapist asks for a girl's name and address, under the statute's plain language, the keeper of the records must reveal them.

This office has, however, consistently rejected the Kantian formulation and taken the position that the constitutional right of privacy takes precedence over the Freedom of Information Act. When the two come in conflict, the keeper of the records (the state) can facilitate or cause a person's privacy to be invaded only to the extent that a legitimate public interest requires it. Falcon v. A.P.O.C., 570 P.2d 469 (Alaska 1977). Hence, if a public release of information would result in a disclosure which would stigmatize one or subject one to opprobrium or otherwise disclose matters which an ordinary, reasonable person would prefer remain private, then there must be a legitimate public interest in releasing the information sufficient to justify the invasion of privacy before the information can be released. Falcon v. A.P.O.C., supra; cf., Ravin v. State, 537 P.2d 494 (Alaska 1975) (balancing of interests).

With respect to motor vehicle registration, as a general rule, the release of the information is in itself harmless. The probability of serious misuse does not appear to be great. The likelihood of potentially obnoxious use (e.g., an unsolicited offer to purchase) does not appear much greater. As a general rule, persons requesting the information will have an interest sufficient to justify the information's release, i.e., hit-and-run victims, seekers of witnesses to accidents, junkyard dealers, auto towers, and creditors. Even a would-be, albeit unsolicited, purchaser has a legitimate interest. */ No one has suggested that there is any pattern of misuse of

*/ We cannot agree with your assumption that the only legitimate use of registration information is to further its major purpose, i.e., revenue and law enforcement. It is, for instance, used to establish ownership. AS 28.10.560; State Farm Mut. Auto Ins. Co. v. Clark, 397 F.Supp. 745 (D. Alaska 1975).

Francis M. Flavin, Ombudsman
Anchorage, Alaska

July 31, 1978

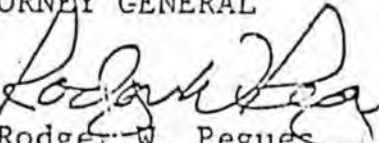
- 3 -

information or any serious or persistent problem in the misuse of information which would support an imposition of administrative restrictions on the release of information under AS 09.25.100 and 110. If such a pattern or problem existed, then the protections of the Privacy Amendment could be invoked. But absent both, the statute controls.

It would certainly be possible, if it chooses to do so, for the legislature to amend title 28 to provide for the administrators to devise regulations or forms for protecting motor vehicle registrants (and others) from constitutionally permissible but nevertheless unwanted intrusions into their privacy. We do not believe that, absent a change in the law or the existence of an actual and serious problem involving someone's privacy, the administrators have the authority to carve out their own exceptions from the statutory dictates of AS 09.25.110. That would be a real abuse of discretion, an abuse which you would, undoubtedly, soon be called upon to examine.

Sincerely yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Rodger W. Pegues
Assistant Attorney General

RWP:md

CHARLIE PARR

ALASKA LEGISLATURE

S. R. Box 50599
Fairbanks, Alaska 99701
456-5029

Pouch V
Juneau, Alaska 99811
465-4908

January 29, 1981

MEMORANDUM

TO: Senator Vic Fischer, Chairman
Senate State Affairs Committee

FROM: Senator Charles H. Parr *CHP*

SUBJECT: Senate Bill No. 90

The following is a brief summary of the key points in SB 90 relating to privacy and public information.

Section 010 gives the State policy of openness, and is also found in existing statutes dealing with the open meeting clause.

Section 015 provides that all records are open to inspection and copying, and provides that fees must be limited to reasonable costs of duplication.

Beginning with (e) at page 2, line 23, there is a list of items which are exempted from disclosure. These may be grouped as protecting the right of privacy guaranteed in the Alaska Constitution, or as matters of public policy where the Legislature has found the greater benefit to be withholding information.

Section 020, beginning on page 6, provides that a record which can be made open by deleting certain confidential parts will be released after the deletions are made. It also says that refusal to release records must be made in writing.

Section 025 establishes a mechanism for obtaining a court order to require the government agency to release the information. A court may examine the records in camera to determine whether they should or should not be released.

Section 035 gives a civil cause of action against a person wrongfully withholding records, and protects the person who is withholding them in good faith.

Section 040 is the definition section.

Sections 2 and 3 of the bill, beginning on page 9, line 22, deal with the State open-meeting law and remove the authority of a municipality to hold executive sessions other than in accordance with State law.

CHP:vc

Alaska Newspaper Association

c/o Box 710, Fairbanks, AK 99707

FOUNDING MEMBERS

Incorporated Dec. 6, 1980

January 27, 1980

ROBERT B. ATWOOD
The Anchorage Times

KATHERINE FANNING
Anchorage Daily News

LOREN STEWART
Cheechako News, Kenai

MAX SWEARINGEN
Peninsula Citizen, Kenai

GLEN COBB
The Frontiersman, Palmer

TOM GIBBONEY
Homer News

JIM C. MARTIN
Alaska Journal of Commerce

G. KENT STURGIS
Fairbanks Daily News-Miner

LEW WILLIAMS
Wricken Daily News

CARL CAMPSON
Juneau Empire

TOM SNAPP
All Alaska Weekly

Sen. Vic Fischer, chairman
State Affairs Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

Re: Senate Bill 90

Dear Sen. Fischer:

I'm unable to attend your committee's hearing Thursday on SB90, the FOI and privacy bill, but wanted you to know our organization will be following this legislation closely and look forward to helping improve it.

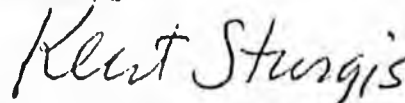
Also, we appreciate the fact you have demonstrated the importance of the FOI-privacy issue by scheduling a hearing so early in the session.

The Alaska Newspaper Association has not taken a position on SB90 but is encouraging its members to study the measure and offer comments and suggestions on an individual basis. In the meantime, we endorse the suggestions made by Prof. Dean Gottehrer of the Alaska Freedom of Information Task Force, of which the ANA is a member.

Generally speaking, it's our belief SB90 is a step in the right direction.

Thank you again.

Sincerely,



Kent Sturgis, chairman
ANA Legislative Committee

cc: Kay Fanning, Anchorage
Dean Gottehrer, Fairbanks



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT (907) 586-3300

February 3, 1981

The Honorable Victor Fischer
Chairman, Senate State Affairs Committee
Alaska State Legislature
Pouch V State Capitol Building
Juneau, Alaska 99811

FILE: Legislature--1981

SUBJECT: Senate Bill 90
(Privacy and Public Information Act)

Dear Senator Fischer:

A bill dealing with privacy and public information has been before the Legislature for several years. Senate Bill 90 is a refinement of those prior unsuccessful attempts. The positions expressed in this letter are those which the Assembly of the City and Borough of Juneau, acting through its Legislative Committee, has adopted in the past and which the committee has not changed this year.

On page 2, beginning at line 19, charges for duplication of public records is limited to recovery of direct cost of duplication. This cost, very often, is the least of the costs involved in providing a copy of a public record. Search cost can be substantial, particularly where the requested record has been moved to an inactive file. It would seem to be questionable public policy to require the tax payers of the state or municipality to assume the burden of searching and reproducing a record when the production will not benefit the general tax paying public, but is for the benefit of the person seeking the record. While the state may have sufficient income to assume this burden, municipalities must still levy taxes to support their operations. For that reason, we request that this section of the bill be amended to permit municipalities to establish a charge for documents which does not exceed the actual cost of producing and duplicating the documents. The federal Freedom of Information Act permits the federal government to recover such costs and this appears to be the more appropriate public policy. The burden of satisfying someone's idle curiosity and of producing records which are solely or primarily for the benefit of the person requesting them should not be borne by the general tax payer but should be borne by the person making the request.

On page 6, lines 13 through 15, the bill provides that upon a request for a public record, the governmental unit must produce the record immediately. This varies considerably from the federal Freedom of Information Act which allows ten days for the agency to determine whether the record is to be produced. Requiring the immediate production of a record places the establishment of the priority of the conduct of the government's business in the hands of the individual requesting a record. If "immediately" is to have any meaning, it must mean "now" and not "as soon as I can get to it." If the custodian of a record is involved in a time-

critical project, the language of the bill would require the custodian to set aside the project in order to search for the record. Not only does record search and production take priority over all other government business, it does not allow a reasonable period of time for the custodian to seek legal advice as to whether a particular record is a public record or falls under one of the exemptions. The ten days allowed in the federal Freedom of Information Act accommodates both of these considerations. We request that the approach taken in the federal Freedom of Information Act be followed in this bill.

Section 3 of the bill (beginning at line 28 on page 9) would repeal the present authority of a state or local government public body to go into executive session to discuss matters which are required or authorized by federal law to be discussed in executive session. More importantly, this section of the bill would repeal the present authority of a municipality to establish by charter or ordinance additional subjects which may be discussed in executive session. If there is no charter provision or ordinance of any municipality in the state which appears to create an abuse of this authority, one can certainly question the need for the removal of this authority. Even if one were able to point to a charter provision which was believed to be an abuse, it should also be remembered that the charter is something which was adopted by the citizens of the municipality. If one is able to point to an ordinance which is believed to be an abuse, it should be remembered that the ordinance can be reached by a referendum. Because we are not aware of any municipality having abused this authority under the present state law and because both mechanisms for the creation of additional subjects for executive session can be reached by the electorate of that municipality, we recommend that Section 3 of the bill be deleted.

Parenthetically, I would point out that in analyzing the deletion of Section 3, one should be careful to distinguish between the authority of a municipality to establish additional subjects for executive session by charter or ordinance on the one hand and the actual use of an executive session for purposes which are not authorized either by law, charter, or ordinance. For example, the fact that a committee of the Legislature has gone into executive session for a purpose not authorized under the Open Meetings Law has no bearing on the fact that the Legislature has authority to amend the statute to provide additional subjects which may be discussed in executive session. Similarly, the fact that the city council may have gone into executive session for some unauthorized purpose, should have no bearing on the council's authority to establish, by ordinance, an additional subject which may be discussed in executive session.

The version of this bill which was adopted by the Senate last year excluded municipalities from the operation of the bill. The Senate State Affairs Committee version of the bill removed municipalities from the bill. It appeared to be the consensus of that committee that local records were a local problem to be dealt with at the local level without state intrusion. The City and Borough of Juneau supports the philosophy that the state should maximize local authority to deal with local problems, particularly for home rule municipalities. For this reason, the City and Borough of Juneau supports the approach taken by the Senate and the Senate State Affairs Committee last session. Just as, I am sure, the Legislature believes that the State of Alaska is in the best position vis-a-vis the federal government to determine which of the State's records should be protected and which should be made public, municipalities

are likewise in the best position to determine which of their records should be protected and which should be made public. It is the municipality, not the State of Alaska, which knows what types of records it generates or comes into possession of. The Legislature has, in the past, demonstrated a total indifference to the need for municipalities to protect certain of their records. One will search the Alaska statutes in vain in an attempt to find a statute dealing specifically with protected municipal records. In that search, however, one will find numerous exceptions for records kept by specific state agencies. Even though municipalities may keep identical records, the Legislature has never seen fit to provide protection for such records in the hands of a municipality. When the the Legislature establishes a program which will involve records which should be protected, it is in a position to address the public records problems at the time it creates the program. Under Senate Bill 90, a municipality would not have that option. It would have to wait to create its program until it had authority from the Legislature to protect the records the program would generate. For the foregoing reasons, we request that Senate Bill 90 be amended to eliminate its coverage of municipalities in the same manner as was done in the bill which was adopted by the Senate last year.

While we believe that the approach requested in the preceding paragraph is the better approach, we also recognize that many of the concerns expressed in that paragraph could also be met by an amendment which would provide for an additional exception at the end of the present 17 exceptions in the bill. The 18th exception would be added after line 18 on page 5 and would read substantially as follows:

- (18) Records of a political subdivision which have been specifically declared by ordinance or charter to be protected records.

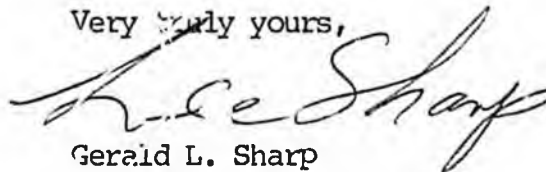
If this approach is taken, the provisions of the bill would be applicable to municipalities but the municipality would, nevertheless, retain authority to deal with those records of the municipality which the assembly or council determines should be protected. The creation of a protected class of records by the municipality would have to be accomplished through the ordinance process which involves notice, public hearings, and public input. As a minimum, municipalities should be given the opportunity to deal with their own records in this fashion. If at some time in the future the Legislature determines that municipalities in general have gone "too far" in protecting their records, it can deal with that problem at that time. In the meantime, the Legislature should refrain from encroaching on local autonomy any more than is absolutely necessary.

There are a number of problems which will exist for public servants who are charged with administering public records under this bill. The most severe is the lack of any definition or standards by which one can gauge whether or not the release of a record would constitute either an infringement upon a person's right to privacy or an unjustifiable intrusion into a person's right of privacy. The bill uses both terms but defines neither. Also, we find no clue as to why these different terms are used. Further, the use of the word "unjustifiable" to modify the phrase implies that the public official is to balance the individual's right of privacy against some other unstated consideration. Too much is at stake to place this burden upon a public employee without additional definitions, standards, or guidance. If the Legislature prescribes a balancing test to determine whether records should be disclosed or not, it, rather than the courts, should provide the standards under which the balancing will take place.

February 3, 1981

I hope you will give serious consideration to the foregoing comments. If you have any questions, please do not hesitate to call me.

Very truly yours,



Gerald L. Sharp
City-Borough Attorney

GLS:p'il

cc: Mike J. Colletta
Brad Bradley
Richard I. Eliason
Terry Stimson
Assembly
Ginny Chitwood, Alaska
Municipal League



OFFICE OF THE FEDERAL INSPECTOR
ALASKA NATURAL GAS TRANSPORTATION SYSTEM
POUCH 6619, ANCHORAGE, ALASKA 99502
907-271-3662

4 FEB 1981

The Honorable Vic Fischer
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

The State Affairs Committee is holding public hearings on Senate Bill No. 90 introduced by you, Senators Farr, Stimson and Rodey. The Office of the Federal Inspector, Alaska Natural Gas Transportation System (ANGTS) has reviewed the bill and urges the State Affairs Committee to consider its comments. AS 09.25.120, one of the statutes which would be repealed by SB 90, sets out various exceptions to public disclosure. One category of documents excepted from public disclosure by AS 09.25.120 is "documents required to be kept confidential by a federal law or regulation..." This exception should be included in any legislation addressing freedom of information in this State.

This exemption is important both to the current Alaska natural gas pipeline construction project and to other relations with the federal government. The State Pipeline Coordinator's Office and the Federal Inspector's Office enjoy a free flow of information between them which helps both agencies to adequately monitor construction of the gasline. The State and the Federal Inspector's Office are negotiating a joint agreement which in part addresses the confidentiality of documents exchanged between them, and the agreement depends on the existence of a State statute exempting such documents from public disclosure. Any change will jeopardize this interchange of documents between the Federal Inspector and the State Pipeline Coordinator.

With these concerns in mind, the Federal Inspector's Office recommends that the legislature clearly include this exemption in SB 90 by changing the proposed Sec. 40.25.015(e)(1) to read as follows:

(1) Those exempted from disclosure by State statute or required to be kept confidential by federal law or regulation;

Thank you for the opportunity comment on SB 90.

Sincerely,



Cheri C. Jacobus
Attorney



ALASKA PUBLIC INTEREST RESEARCH GROUP

Post Office Box 1093/Anchorage, Alaska 99510/(907) 278-3661

February 6, 1981

Sen. Vic Fischer, Chair
Senate State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

We would like to reiterate and expand upon our comments at the teleconference hearing of February 5, 1981 on SB 90, Freedom of Information Act.

As an impressive array of witnesses has illustrated, there is a strong need for a Freedom of Information Act. SB 90, with a few relatively minor improvements will fill that need.

Public access to information compiled by and for its government is a basic requirement of the democratic process of government. This is not special interest legislation for the press. Rather, this is legislation which ensures that the public, including the press, can hold its government accountable.

Our specific suggestions follow:

Sec. 40.25.010(d) does not contain a fee waiver for requests in the public interest by those unable to pay, such as non-profit groups or individuals. We support a change along the lines of the federal FOIA, which contains the following language: "Documents shall be furnished without charge or at reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public."

We support the goal of releasing non-exempt portions of records to which some exemption otherwise applies (Sec. 40.25.020(c)). The proposed standard (that the lawful custodian of the record determine whether deletion of the exempt part will make release "suitable") is vague and possibly too discretionary as a standard. We support a change along the lines of the federal FOIA's use of the standard of "reasonable segregability" to govern provision of records after an exemption has been determined to apply.

We support the existing provisions which allow requestors whose request has been denied easy and cheap access to the courts: filing and service fees are waived and the court provides a simple form which instructs complaining parties how to proceed without a lawyer. The governmental unit has the burden of proof to show the exemption applies. We suggest that any notice by the governmental unit that it is applying an exemption be required to include a packet of instructions, including the form drawn up by the superior court, on how to proceed in court without counsel to challenge the exemption. In this way we can ensure that citizens are fully aware of their rights under the law without the need to turn to legal specialists. In the interest of speedy processing of the court case, we suggest that the legislature consider requiring that the court hear the case within a specified short period (e.g. 10-30 days). Otherwise, backlogs in the court can hamper the speed with which the citizen can gain access to the information.

Another legal issue is whether someone who would be adversely affected by the disclosure of an arguably exempt record should be allowed to intervene in a case involving the application of an exemption. If this standing to intervene is not otherwise provided by the Alaska Administrative Procedures Act, it should be provided in the bill. The interests of fairness require that one who is affected by disclosure be given a voice in the process, especially since the government may not pursue the case with the same vigor as the affected party. This change should not cause delay or make access more difficult as long as the burden of proof remains solidly on those who would apply the exemption.

Sec. 40.25.115(c) should allow copies to be requested in person. When the requestor's needs are urgent enough to merit an in person request, he or she should be able to get immediate action by making the request in person.

We support several changes from previous versions of the bill:

- *Exclusion of search costs in the charges to the requesting party (Sec. 40.25.015).
- *Exemption for attorney work product in possession of the governmental unit only until the matter is closed (Sec. 40.25.015(e)(15)).
- *Broad definition of governmental unit to which the Act applies. We urge the Committee to resist any change which would exclude local governmental units from coverage under the bill (Sec. 40.25.040 (3)).

The inclusion of these changes in SB 90 strengthens the bill.

Letter to Sen. Fischer

SB 90

Page three

We close with the strong recommendation that the Senate pass a Freedom of Information Act substantially similar to SB 90.

Sincerely,

ALASKA PUBLIC INTEREST RESEARCH GROUP

Matthew Zencey

Matthew Zencey

alaska
state
hospital
association

319 Seward St., Juneau, Alaska 99801 (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

President
Sister Barbara Haare
Ketchikan General Hospital
Ketchikan

February 17, 1981

President Elect
Tom Mingen
Fairbanks Memorial Hospital
Fairbanks

Secretary/Treasurer
Ron Pavellan
Alaska Hospital & Medical
Center
Anchorage

The Honorable Charlie Parr
Alaska State Senate
Pouch V, State Capitol Building
Juneau, Alaska 99811

Immediate Past President
- Camosson
Providence Hospital
Anchorage

Dear Senator Parr:

Executive Director
Dennis L. DeWitt
Juneau

The Alaska State Hospital Association has reviewed Senate Bill 90 and recommends that the following amendments be adopted.

1. Page 3 Lines 13-18

The exemption found in Subsection (6) should include patient financial information and the reference to autopsy reports ought to be moved from this section to a separate section.

Rational: a) Patient financial data while not part of a medical record, remains personal data about a patient, not the facility and as such should be protected.

b) Autopsy reports should be accessible when a court has determined the need for an inquest pursuant to AS 12.65.020. A requirement that autopsy reports should be public records simply because the person had not recently seen a physician, seems to serve no apparent public good.

2. Page 5 Lines 19-20

Subsection (f) should include an exemption for medical records and read as follows:

(f) Unless specifically exempted from disclosure by statute, all records except those specified under (c) of this section, become public after they are 20 years old.

February 17, 1981
The Honorable Charlie Parr
Page two

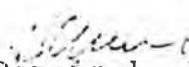
Rational: Patient medical records are private and ought to be disclosed only at the direction of the person subject to the record.

3. Page 6 Lines 3-7
Subsection (i) ought to be rewritten to include only managerial positions where the person has discretionary power over the operation of the entity and the reference to job performance and ability to perform the job ought to be struck.

Rational: Governmental employees ought not be treated differently than non-governmental employees unless there is a specific public good to be served. We can see no good and potential exposure to harassment by the disclosure of the compensation of a cook, janitor, clerk, nurse or other non-management personnel. The references to job review and ability to perform is a type of information exempted under (3)-(8) of Section .015 and as such ought to be protected for public employees as well.

Thank you for your consideration of these items. We will be happy to respond to any questions you may have.

Sincerely,


Dennis L. DeWitt
Executive Director

DLD/b

cc: Senator Vic Fischer



CITY OF NOME

P.O. BOX 281 - NOME, ALASKA 99762
TELEPHONE (907) 443-5242

February 11, 1981

Senator Vic Fischer, Chairman
Senate State Affairs Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

I am writing you about 2 bills you are currently considering. These are SB90 and SB153.

SB90 might open up government, but would be harmful in the process. Executive sessions are a must to insure that the legal & personnel aspects of governments are not endangered. This is especially true in smaller communities where it is difficult to keep anything "private".

The City's personnel records must also be closed. If they become open records, then very little will be put in them for reference purposes and the general administration of the personnel function.

While it might seem simple or easy for larger communities to produce records on request, smaller ones with only one or two employees in the clerk's office can't comply in that fashion. Many records are stored away in boxes and old files and are not easily accessible.

Regarding SB153, the City of Nome is presently in court with the Methodist, Lutheran and Catholic churches over similar issues. We have 14 churches in Nome, almost all of them in "missionary status". They have had a great deal of their land and property exempt until recently when the City said that we couldn't afford it any longer. In 1978, this exempt property was valued at \$2,500,000. That was when our total real property was \$29,000,000. If anything should be done to the statutes regarding non-profit religious property, it should be to clarify and strengthen them.

Thank you for the opportunity to comment.

Sincerely,

Ivan L. Widom
City Manager

cc: Mayor & City Council
Bob Hicks

CITY OF SEWARD



P. O. BOX 337
SEWARD, ALASKA 99664
2/11/81

CITY MANAGER	224-5214
COMPTROLLER	224-5216
INFORMATION	224-5215
CITY POLICE	224-5201

State Affairs Committee
Pouch V
Juneau, Ak 99811

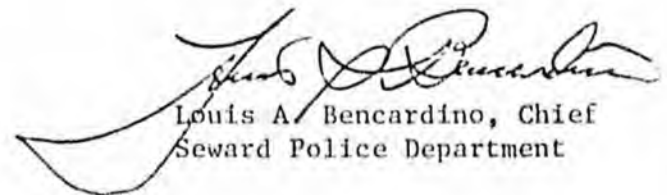
Dear Mr. Chairman:

I am presenting written testimony concerning the Privacy and Public Information Act. If this bill passes, next year you will be taking more testimony on what to do about the great apathy of witnesses to crimes. Most people will not be cooperating with police if they are aware that their names, addresses, and other personal information can be given to the public. We will be unable to protect any witness that does not come under the heading of "confidential informant."

My second concern is this: Will the public be made aware that they will be paying additional thousands of dollars a year to staff a governmental unit to produce these records in each community, since they will be charged only "direct" costs such as copy fees, etc.

Who will be making the public aware of what this bill provides? Any informant of any crime will no longer have any right to privacy, except during investigations. Unlike the news media, we do not have a conflict of interest issue here, except that we would like to protect the people from testifying to police under any air of vendetta that this bill will harbor.

Sincerely,



Louis A. Bencardino, Chief
Seward Police Department



THE JUDITH GROUP INC.

P.O. Box 2334

Soldotna, AK 99669

PHONE: 283-4359

February 8, 1981

Senator V. Fischer
Chairman
Senate State Affairs Committee
Pouch V
Juneau, Ak. 99811

Dear Mr. Chairman,

In listening to the testimony on SB 90, February 5, 1981 via Teleconference, we were struck by the similarity of frustration levels to our own experience. Enclosed are copies of correspondence with:

Department of Health & Social Services.....A. Holmburg, Director March 12/79

At the time of the letter to Mr. Holmburg the Judith Group was involved with the Alaskan Family Violence Project, Grant #78-DF-AX-0107 from Law Enforcement Assistance Association awarded to the Alaska Department of Health & Social Services/Ak. Family Violence Program/Judith Group. Portion of the Grant Objectives as they involved the Judith Group included.

Mr. Holmburgs reply.....April 3/79

Response to Mr. Tom Janadlo telephone request (this request stressed need for immediate response on agency knowledge of incest. Not to include Judith Groups stats) We as yet have to have a response from anyone at Division of Social Services on our letter.....April 4/79

Individual testimony of my own to the White House Conference on Families, Ak. From it is apparent that until the Legislative Auditor, Mr. Wilkinson published there was no way the Judith Group was able to secure any information, stats, whatever. The HSS Statistical report is not comprehensive enough.

All of the questions addressed to Mr. Holmburg should have been answered. According to our understanding the answers were mandated by law; Federal or State. This information should have been available. Unfortunately, Mr. Wilkersons report are mandated only every 3rd. year. The question of due process are very interesting.

Thank you,
Joan Bennett Schrader
Joan Bennett Schrader, Secretary
The Judith Group, Inc.

cc: Sen. C. Parr Sponsor
B. Bradley
R. Eliason
T. Stimson
M. Colletta

LOCALE

OBJECTIVES

DATA COLLECTED

MEASURES OF SUCCESS

Kenai/
Women's Resource
Center

- number and case histories of post-crisis assistance
- number of victims transported to Anchorage AWAIC
- follow up evaluation of victims who remain in Kenai

Kenai/
Judith Group

To provide intra-family violence victim assistance, public information, and education.

To research, analyze and document the incidence of incest in one Alaskan community and to collect, develop, and distribute information and materials on incest throughout the state.

- number of volunteer hours
- report on incidence of incest in Kenai Peninsula including:
 - number reported to police
 - number reported to hospitals
 - number reported to social service agencies
 - number which come to attention of Women's Resource Center
 - comparison to available national statistics
 - actions taken in response to reports
 - profiles of victims and offenders
- random surveys of public opinion to measure awareness, concerns, and attitudes regarding incest
- process for collecting and analyzing data concerning repeat rates of known offenders, relation to other crimes, and relation to alcohol will be developed

- documentation that incest is a problem which may be used in program planning
- an increase in public awareness of incest, consequences, and services available for victims and offender

March 12, 1979
Box 2334
Soldotna, Alaska 99669

Mr. Arthur C. Holmburg, Director
Department of Health and Social Services
Pouch H 0 5
Juneau, Alaska 99811

Dear Mr. Holmburg,

On the 7th of March The Judith Group spoke with Ms. Faye Guthrie, Regional Office Manager, Department of Health and Social Services, in her Anchorage Office. As a result of that meeting we realize that there are many needs we, as a group have.

The most crucial need is to know what is the disposition of those children who are the victims of incest. When we report a case to your office (thru our local workers) it is as if these children no longer exist for us. Now, we understand the need for confidential records, but, there must be some method of finding out what care is taken of these children.

Are there case plans for these children, whether they remain in their homes or are placed out of their homes?

Is there regular follow-up?

Are there preventative services available to the family on a monitored basis?

What reviews are mandated; how regular?

Can the Judith Group expect to gain the following information from your data system?

Date of birth, sex, age, race and religion.

Family structure, including nuclear and extended family.....and here we view it as critical to know the length of time a step-parent or guardian relationship has existed.

Any handicapped condition, physical, emotional, educational, has the child been evaluated and what free, special services have been provided.

Has the child entered care (court order or voluntary placement) and the nature of the custody agreement. Was the victim of incest or sexual abuse provided with an attorney to ensure compliance with their right to the same interest the child in a divorce case would have. The nature of the custody agreement. Is there monitoring, on a continual basis, of the offender, if the offender remains in the home with the child.

Geographic locations upon entry into care.

How placement is funded. Where placement (in the child's home area)

Reason for placement (here we would need to know—if incest or sexual abuse has occurred, what "acting out" the child has done.

Date and type of initial placement

Services provided to child and family prior to placement.

during Services provided to child and family (whether foster family, guardian, etc) ~~prior to~~ placement. Here we want to be able to pick up on the incidence of incest as it is defined in the Alaska Revised Criminal Code Commentarty, Section 11.41.450 INCEST and also Section 11.41.430, subsection (a) (1). Section 11.41.410 Subsection (a) (4).

Placement status of sibling.

Dispositional goal for the child and time by which the goal should be attained.

Other agencies providing to or having responsibility for the child and the family....what monitoring is done on these agencies; ex: if the therapy of the child and the offender is carried on by a Freudian analyst.

Do the records of case transactions include:

dates and changes in legal status.

date, type and location of subsequent placements. Reason for change.

dates of case reviews.

dates and description of outcomes of dispositional reviews.

dates and description of services provided to the child and family by the responsible agency and other agencies with which the child and family has contact. In this area include foster or guardian.

dates of visits between agency and child, agency and natural parents, (and here it would be helpful to know if the natural parents are separated (living apart) is the other parent informed of the issue and the child's placement) agency and foster parents, and child and natural parents, extended family in the case of no natural parents available.

date and termination of parental rights.

barriers to adoption when parental rights are terminated (here again did the child have a attorney to protect his/her rights....property-wise as well as otherwise).

date of discharge, and discharge status (e.g. with natural parents or relatives, adoptive placement, transferred to another agency has reached majority, death, marriage, other (here: what is other)

whether child was adopted with the assistance of a subsidy and by whom (foster parents, relatives, others, were relatives informed of the adoption prior if foster parents are the party who does adopt).

dates child enters placement thru any agency.

when the offender is involved with the court system as a offender.

What avenues of complaints does the child have? The family have?

We are attempting to work up a reporting sheet for police, physician, crisis workers, etc. and we must have some idea of what your data will reveal to mesh these reporting sheets with your records.

Was the offender thru the court system or involved only in therapy, ^{what} monitoring?
and What monitoring is done on out-of-state placement or adoption.

Thank you very much for your time and effort on this matter. It is important to The Judith Group that we have this information. There was a meeting of the various law enforcement agencies in Juneau in February and we have requested copies of that meeting. They have not arrived as yet but we will wait patiently, I guess. What else is new.

Anyway, thank you in advance. Hopefully everything we have asked you about is already either in your data system or is being programmed in.

Next, how do we go about receiving this data?

Sincerely,

Jean Bennett Schrader
Joan Bennett Schrader, Sec.
The Judith Group

cc; Faye Guthrie
Dr. McGinnis
Kenai-Soldotna WRC
Kenai Social Service Office
Alaska Family Violence Program; S. Lederman:
URSA
All Advocates
Richard C. Hacker
Commissioner H. Beirne

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Pouch H-05
Juneau, Alaska 99811

April 3, 1979

Ms. Joan Bennett Schrader
Secretary
The Judith Group
Box 2334
Soldotna, Alaska 99669

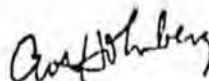
Dear Ms. Schrader:

We appreciate your concern for victims of incest who are referred to the Division of Social Services. The primary concern of all social service workers within the Division is to protect any child who is in danger of harm in his living situation. Therefore, when referral is received the social service worker investigates as is needed to assess the immediate danger to the child. If a child is found to be in need of removal from his home, he will be placed in a foster family. The worker develops a specific case plan, given the facts of the situation, which is based at efforts to rehabilitate and reunite the family. Workers provide services to children in foster care as well as to the families of the children.

In cases where removal of a child from his home is not required but there is need for protective intervention, the worker's efforts will be focused at working with the family to improve the situation which brought them to the agency's attention. Case reviews occur every three months to insure that all needed services are being brought to bear to remediate the situation.

For reasons of confidentiality, we cannot provide specific details on cases handled by our workers. Information can only be shared on an aggregate basis, as through the Monthly Statistical Report produced by the Division of Social Services. As requested, we are enclosing a copy of the latest Monthly Statistical Report and will be happy to add you to the mailing list for future copies.

Sincerely,



Art Holmberg
Director

Enclosure

100-1 1/18/79
jbs

March 18, 1980 Soldotna Hearing on the
White House Conference on Families.

I am Joan Bennett Schrader and I am testifying on my own behalf.

As a member of this community I have grave concern over the follow-thru on the care our youngsters in the Corrections Institutions and Foster Homes receive.

To secure any information on what happens to them is extremely difficult. The reports made available by the DOC are not as comprehensive as I should like to see.

My first recommendation is to have

Easily accessible information on the placement of these young people. I am not advocating identifiable information but, rather the knowledge communities should have on the placement be in foster care, that a worker has formulated a case plan, that the worker is in contact on a monthly basis with the young person. Further-more, that monthly personal reports, where possible, be made to the family of the young person by the same worker or in the case where one worker cannot handle this, that the DOC workers are able to assure the family of some worker in the DOC has seen and spoken with the young person. That the worker be identified by name, and a phone number or address be made available to the family.

In the Performance Review of the Department of Health & Social Services, Juvenile Confinement Programs, dated September 28, 1980 and signed by Gerald Wilkerson, CPA, ~~in~~ on behalf of the Legislative Auditor, Division of Legislative Audit, page 10, listed under

D. Juvenile Treatment Plan

"60% of the Department and child care facilities juvenile files ~~did not~~ tested did not contain a detailed treatment plan for the juveniles.

In order to assure that juvenile needs are met while in institutional care, a thorough evaluation of needs and a method of meeting these needs should be prepared by either the Departments caseworker or the institutions staff. If the plan is ~~developed~~ developed by the institution, it should be subject to review by the Departments caseworker."

Page 11

"Although DOC has a formal decision process for placing juveniles in child care facilities, 57% of the DOC files tested did not indicate how the placement decision was reached. At DSS 54% of the tested files did not indicate the basis for the placement decision.

Although consideration of all alternative placements is necessary to assure the best possible care by the juveniles. The alternatives considered and the reasons for the final selection should be documented to ensure juveniles receive due process."

F. Caseworker contact with the juvenile

67%

"67% of the Department and child care facility files tested indicated the Department's caseworker had very limited, if any, contact with juveniles after placement. Also, DOC practice precludes probation officer involvement with juveniles placed at McLaughlin Youth Center."

G. Evaluation of the juveniles' progress

"Half of the DOC and 30% of the DSS files tested did not contain any institutional evaluation of the juvenile. Additionally, 75% and 37% of the DOC and DSS files, respectively, did not contain an evaluation of the juvenile by the Department's caseworker. Testing of the institutions files indicated 18% of the juveniles had not been evaluated. Another 44% ~~contained~~ of the files contained evaluations which did not address the progress of the juvenile. Most of those only addressed the juvenile's status without relating the status to any identifiable problems."

Page 12

"Our testing found that 76% of the cases reviewed did not indicate regular progress reports were sent to parents. The Department should forward copies of all evaluations to the juveniles' parents including any necessary explanations or comments."

*end of quotes
from evaluation*

The above are only some of the problems with DSS and DOC. I believe that communities should be informed on what the DOC and DSS are doing with children and young people.

We don't have a right to information from them and it should not take a copy of the auditors report to finally enable us to put our finger on what is happening to these children.

Last year a request was placed before the DSS, Juneau, for information on what happens to children who are within the child care system.

They were asked.....

Are there case plans for these children, whether they remain in their homes or are placed out of their homes?

Is there regular follow-up?

Are there preventative services available to the family on a monitored basis? (This is the case of child abuse/neglect)

What reviews are mandated? How regular?

Can the following information be gained from your ~~file~~ data system.....

Date of birth, sex, age, race religion.
~~Family structure, including nuclear and extended family;~~ length of time a step-parent or guardianship relation has existed?

Any handicapped condition, physical, emotional, educational.

Has the child been evaluated and what free, special services have been provided?

Has the child enter Care (court order or voluntary placement) and the nature of the custody agreement. Was the victim of incest or sexual abuse provided with a attorney to insure compliance with their right to the same interest the child in a divorce case would have? The nature of the custody agreement. Is there monitoring? On a continual basis? Of the offender if the offender remains within the home with the child?

How placement is funded. Where placement (foster care) in the child's home area.

Reason for placement of child. If incest or sexual abuse has occurred what acting out the child has done.

Date and type of initial placement.

Services provided to the child and family prior to the placement?

Services provided to the child and family (whether foster family, guardian, etc.) during placement. Placement status of siblings.

Dispositional goal of child and date by which the goal should be attained.

Other agencies provided to or having responsibility for the child and family, what monitoring is done on these agencies?

Do the records of case transactions include:

dates and changes in legal status.

date, type and location of subsequent placements. Reason for the change.

Dates of case reviews.

Dates and ~~description~~ description of outcomes of disposition reviews.

Dates of visits between child and agency, natural parents and agency. Here it would be helpful to know if the natural parents are separated, (living apart) is the other parent informed of the issue and the child's placement? Visits between foster parent and agency. Between child and natural parents, child and extended family in the case no natural parents are available.

Date of termination of parental rights.

Barriers to adoption when parental rights are terminated, did an attorney protect the child's rights, property-wise as well as other-wise?

Page four

Date of discharge and discharge status. With whom? Natural parents, foster parents, relatives, adoption placement, transferred to another agency, reached majority, death, marriage, other, what is other?

Whether child was adopted with assistance of subsidy? By whom? (foster, relatives, others?) Were relatives informed of the adoption prior if foster parents or others are the party who do adopt.

Dates child enters placement thru any agency.

Is the offender in cases of child abuse, sexual abuse, involved with the court? As an offender? How?

What avenues of complaint does the child have? The family have?

If the offender is involved in the court system is it by therapy, monitoring done....what and by whom?

What monitoring is done in out of state placement?

These were questions placed before the DSS a year ago and for reasons of confidentiality they were not answered. I believe we have a right to this information. On a ~~agency~~ basis only, not on individual cases. Everything asked should have been available to any person. It was not then, and after reading the Auditors report, I can understand why.

In order for community members to support a reasonable and useful program for aid to children and families, records must be kept.

My recommendation would be for the DSS and DCS to be directed to keep them and to make their data system have spaces for the questions they were asked.

Thank you for listening.

Respectfully submitted,

Jean Bennett Schrader
Jean Bennett Schrader
P.O. Box 1264
Kenai, Alaska 99611

The Judith Group, Inc.
Box 2334
Soldotna, Alaska 99689
April 4, 1979

Division of Social Service
400 Gambell
Anchorage, Alaska 99501

Attention: Tom Janidlo.

Dear Mr. Janidlo,

The following are the population resolutions from the Kenai Peninsula Borough for this area of the Borough.

The City of Kenai	4374
The City of Soldotna	2368
Sterling	1374
Ninilchik	470

Because of the scarcity of time statistics for the Homer and Seward areas, with one exception, are not included. The term Minor used here includes all up to 18 yr

From the Soldotna Police	(1977-78)	No involvement of minors in any crime of a sexual nature. (as victim)
Alaska State Police (Kenai-Soldotna area)	(1978)	No involvement of a Minor in any crime of a sexual nature. (as victim)
Kenai City Police	(1977-78)	Four (4) to six (6) separate incidents during 1977 - 78. There are no figures for how many children were involved in each incident. To secure more stats on this would necessitate a "hard search" of over eight (8) thousand cases. The Kenai Police do not have the staff need for such a process. The 4-6 cases were Child Molestation.
Seward City Police	(1978)	One (1) case of incest (Female) that resulted in Court Action, not on the incest related area, but on a "Contributing To The Delinquency of a Minor" by others. This matter was reported as required by Law, to the Social Service.

District Attorney Office (Kenai)	1977-78 to end of March	Cases reaching formal stage Lewd & Lascivious Three (3) Statutory Rape Two (2) Rape (possible Minor Involvement) no way to tell from reports Four (4) Contrib. Del. of a Minor Three (3) Felony (Definite) Ten (10) Misdemeanor (no way to know if there were sex involvement) Office Contacts Two (2) sexual involvement (alleged)
Social Service Kenai Office	1977-78	Seventeen (17) alleged incest cases, Female One (1) sent Prosecutors Office.

Tom, you will appreciate the hurry that this involved and that had we more time we (The Judith Group) would have had all of these reports much more comprehensive.

Hope this will assist you and let us know what happens.

Sincerely,

Joan Bennett Schrader, Sec.
The Judith Group

cc; Juv. Intake Officer (Kenai) Social Service (Kenai) Seward Police Kenai Police Kenai Care Center District Attorneys (Kenai)	Alaska State Police (Soldotna) Soldotna Police Division of Corrections (Kenai) Central Peninsula Mental Health Kenai Peninsula School District (B. Taeschner) Alaska Court System (Kenai)
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February 13, 1981

To: Senate State Affairs Committee
Senator Vic Fischer, Chairman
All Members of the Committee

From: Ginny Chitwood, Executive Director
Alaska Municipal League

Re: S 90 - Privacy and Information Act

Municipalities realize the need for the public to have reasonable access to municipal records. However, the provisions in SB 90 go further than what the Alaska Municipal League considers reasonable. We can foresee many unfair burdens being placed on municipalities if this bill passes in its present form. Some are as follows:

Records produced "immediately" - This would place the request for a public document as first priority over all other conduct of the government's business. A more reasonable approach would be to allow ten days, as provided by the federal government. This, at least would allow determination as to whether or not the document being requested would fall under the list of exemptions and therefore not be required to be produced or whether or not it was in the public's interest to be produced. If illegal releasing of information is done by a municipal employee, the municipality would be open to a fine which means the municipal attorney would have to review all requests.

"Direct cost" - Some documents are readily available. However, it is possible and likely that to produce other documents would involve a great deal of time; searching thru archives, records of years past in storage, etc. Most of our communities do not have sophisticated retrieval systems and the amount of time needed to locate said document could take up a good portion of the employees time. The League feels the word "direct" should be deleted from page 2, line 21, or at least defined to include labor involved by the municipal employee in the search for the document that has been requested.

Subjects for executive session - The League feels the municipality is the best judge of what should be considered confidential and objects to the deletion of the right to establish these subjects by charter or ordinance (page 9, lines 28 and 29.) Procedures for charter ratification and ordinance adoption afford adequate safeguards ensuring that local actions reflect local opinion.

Senator Vic Fischer
Page 2
February 11, 1981

Secs. 140 and 150 establish the requirements of financial disclosure. Note that financial disclosure is by "category" rather than by dollar amount. Sec. 150(a).

Sec. 160 details prohibitions on activity considered a conflict of interest. Special conflict of interest provisions for legislators appear at Sec. 170. Government contracting is regulated as Sec. 180. Conflicts of interest in employment are covered in Sec. 190. A state official or state employee other than legislator who has a personal situation that presents ethical problems is directed to a course of conduct under Sec. 210.

Sec. 220 deals with similar problems for a legislator.

Disclosure of confidential information is regulated under Sec. 240.

Sec. 250 regulates the conduct of former state officials or state employees for two years after termination of state service. Penalties are established in Sec. 260. Commission remedies for violations are established under Sec. 270, including civil penalties. Direct citizen action is authorized under Sec. 280.

The definitions section, Sec. 400 is a mix of the familiar and the new. Essentially no change was made in the list of public officials for whom financial disclosure is required. The term "candidate" is defined.

The term "gift" excludes campaign contributions reported under AS 15.13.

Secs. 3 - 19 of the bill respond to the implications of the repeal of AS 39.50 and portions of AS 15.13 and 24.45.

The Act takes effect July 1, 1981.

RAB:ljb



February 11, 1981

State Affairs Committee
Pouch V (MS 3100)
Juneau, AK 99811

The City of Kodiak would like to voice our strong objection to both the passage of SB 90 - Privacy and Public Information Act, and also to consider including municipalities under this act.

Of first concern would be the requirement to immediately produce records, specifically the personnel records. Most employees with municipal government have assigned responsibilities for eight hours, and occasionally ten or 12 hours a day. If this standard were approved there would be an immediate requirement for additional help to retrieve and produce records. Plus, the direct cost would be unrealistic due to the need for additional employees; an additional tax burden to the taxpayer.

Next would be to take away the Councils right to executive session. This would leave every municipal government wide open for a law suit, or prevent them from transacting business. Executive sessions were established for the protection of an individuals character, their tax dollars or legal matters. The general public, and most importantly the press, should be knowledgeable of why executive sessions are held. The failure to transact business because a municipality could be held liable for a "defamation of character" or "misappropriation of funds" law suit would be ever present.

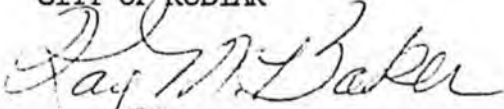
Another very important item would be the disclosure of an applicants resume for municipal positions. We strive to employ the highest caliber of personnel, but just to reveal their names could prevent a well qualified individual from applying due to reprisal with a present employer. If the legislature allows this bill to become law they will deny an individual his or her right to privacy. When reviewing personnel records "that" individual should be the one to approve such action.

State Affairs Committee
SB 90
Page 2

Historically the City Clerk's office has been open to the public, supplying all information with the exception of documents that would injure an individual's character, harm the municipality financially, or matters that are pending litigation. We see no valid justification for this procedure to change.

Sincerely,

CITY OF KODIAK

A handwritten signature in cursive script, appearing to read "Kay M. Baker".

Kay M. Baker
City Clerk

KMB/d

cc: Alaska Municipal League

Original sponsors: Parr, Fischer,
Stimson and Rodey

Offered: 5/14/81
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 90 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to privacy and public information;
7 changing Rule 65 of the Alaska Supreme Court Rules of
8 Civil Procedure; and providing for an effective date."

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

10 * Section 1. AS 40 is amended by adding a new chapter to read:

11 CHAPTER 25. PRIVACY AND PUBLIC INFORMATION.

12 Sec. 40.25.010. STATE POLICY. It is the policy of the state that

13 (1) all governmental units exist to aid in the conduct of
14 the people's business;

15 (2) the people of this state do not yield their sovereignty
16 to the agencies which serve them;

17 (3) the people, in delegating authority, do not give their
18 public servants the right to decide what is best for the people to know
19 and what is best for them not to know;

20 (4) the people's right to remain informed shall be protected
21 so that they may retain control over the instruments they have created;

22 (5) the people's right to privacy as provided by the consti-
23 tution is recognized and shall not be infringed;

24 (6) the records of governmental units shall be open for
25 public inspection unless the inspection infringes on a person's right
26 to privacy or is otherwise prohibited by statute.

27 Sec. 40.25.015. RECORDS TO BE OPEN TO INSPECTION. (a) Except as
28 otherwise provided by AS 40.25.030, all records are open to inspection
29 and copying by any person during the regular office hours of the lawful

1 custodian of the records or the custodian's designee. The custodian of
2 the records shall take all necessary precautions for their preservation
3 and safekeeping.

4 (b) Every custodian of records shall make them available for
5 public inspection and shall give a copy of the record on request and
6 payment of fees, if any. A custodian shall permit memoranda, trans-
7 cripts, and copies of the public writings and records in the custo-
8 dian's office to be reproduced in any reasonable manner. In addition,
9 a custodian shall furnish proper and reasonably accessible facilities
10 for inspection of records, subject to reasonable restrictions as are
11 necessary for the protection of the writings and records and to prevent
12 interference with the regular discharge of the duties of the custodian
13 and the employees of the custodian. If a certified copy is requested,
14 that copy is in all cases evidence of the original.

15 (c) Copies of records may be requested orally or in writing, in
16 person or by telephone, electronic communication, or by mail. These
17 requests shall be treated in accordance with the provisions of (a) and
18 (b) of this section.

19 (d) The commissioner of administration shall prescribe a uniform
20 schedule of fees to be limited to reasonable standard charges for docu-
21 ment duplication, and provide for recovery of only the direct cost of
22 the duplication and the actual postage costs if the documents are
23 mailed. The commissioner may reduce or waive the payment of fees if a
24 reduction or waiver would be in the public interest or if the requester
25 is indigent.

26 Sec. 40.25.020. DUTIES OF GOVERNMENTAL UNIT. (a) Immediately
27 after receiving a request for a public record, the custodian of the
28 record shall

29 (1) make the record available;

1 (2) inform the requester that unusual circumstances, as
2 defined in (e) of this section, have delayed or impaired the handling
3 of the request or that the record is in active use or storage and not
4 immediately available and specify in writing the earliest time and
5 date, not later than five working days after receipt of the request,
6 when the record will be available;

7 (3) inform the requester that the governmental unit does not
8 maintain the record, and provide, if known, the name and location of
9 the governmental unit maintaining the record; or

10 (4) deny the request.

11 (b) If a request for access to a public record is denied, in
12 whole or part, the governmental unit shall in writing, notify the re-
13 quester of the specific reasons for the denial, and identify by name
14 and position or title the person responsible for the denial. In addi-
15 tion, the governmental unit shall inform the requester that review of
16 the denial may be sought from the head of the governmental unit and
17 that a request for review must be filed within 30 days after notifica-
18 tion of the denial. The head of the governmental unit shall decide
19 within five working days after a request for review is filed whether to
20 uphold the denial of access. If the decision is to disclose, the
21 governmental unit shall immediately notify the requester and make the
22 record available. If the denial of access is upheld, in whole or in
23 part, the head of the governmental unit shall notify the requester in
24 writing of the decision, the specific reasons for the decision, and of
25 the right to bring a judicial action under AS 40.25.070.

26 (c) When the governmental unit determines that contents of a
27 record exempt it under the provisions of AS 40.25.030, it shall also
28 determine whether a deletion of the exempt parts of the record will
29 make the record suitable for release, and, if so, the deletion shall be

1 made and the record released, with the notation that exempt material
2 has been removed. If the governmental unit determines that the record
3 or a portion of the record is not open to inspection, it shall provide
4 written notification to the person requesting the record of its deter-
5 mination, of the statutory basis for this determination, and that under
6 AS 40.25.070 a suit may be brought to compel production of records that
7 are improperly withheld. If at the time of the deter-ination the
8 requester is present in the office of the custodian, the notification
9 required by this subsection shall be provided by the custodian directly
10 to the requester; if the requester is not present in the office of the
11 custodian, the notice required by this subsection shall be by certified
12 mail.

13 (d) Making a request to a governmental unit for a record under
14 AS 40.25.015 is considered to exhaust a person's administrative remedies
15 with respect to the request if the governmental unit denies the request
16 or fails to comply with (a)(1) - (3) of this section. If the govern-
17 mental unit can show that unusual circumstances, as defined in (e) of
18 this section, continue to exist and that it is exercising due diligence
19 in responding to the request, the court under AS 40.25.070 may retain
20 jurisdiction and allow the governmental unit additional time to complete
21 its review of the record. Upon a determination by a governmental unit
22 to comply with a request for a record, the record shall be made promptly
23 available to the person making the request.

24 (e) As used in this section, "unusual circumstances" means

25 (1) the need to search for and collect a requested record
26 from a field facility or other establishment that is separate from the
27 office processing the request;

28 (2) the need to search for, collect, and appropriately
29 examine a voluminous amount or variety of separate and distinct records

1 which are demanded in a single request;

2 (3) the need for consultation, which shall be conducted with
3 all practicable speed, with another governmental unit having a substan-
4 tial interest in the determination of the request; or

5 (4) the need to notify a person and afford the person an
6 opportunity to be heard under AS 40.25.030(b).

7 Sec. 40.25.030. EXEMPTIONS. (a) The following records are
8 excluded from the provisions of AS 40.25.015:

9 (1) records exempted from disclosure by state statute, court
10 rule, or federal law or regulation;

11 (2) any tax or information return, or record or report re-
12 lating to that return, which is required to be filed in accordance with
13 the provisions of AS 43 or municipal ordinance;

14 (3) archival materials donated by individuals to the extent
15 of any written limitations placed on them as a condition of the contri-
16 bution; however, all archival materials become public information after
17 not more than 50 years and any statement of limitations must be pro-
18 duced upon denial of access;

19 (4) circulation records maintained by public libraries,
20 public school libraries, and University of Alaska libraries showing
21 personal transactions by those borrowing from them;

22 (5) trade secrets and confidential commercial, financial,
23 geological or geophysical data furnished to a governmental unit;

24 (6) materials used to administer a licensing, employment, or
25 academic examination if disclosure would compromise the fairness or
26 objectivity of the examination process;

27 (7) investigatory, intelligence, and original entry records,
28 compiled for law enforcement purposes, but only to the extent that
29 production of the records would

- 1 (A) interfere with enforcement proceedings;
- 2 (B) deprive a person of a right to a fair trial or an
- 3 impartial adjudication;
- 4 (C) constitute an unwarranted invasion of personal
- 5 privacy;
- 6 (D) disclose the identity of a confidential source and,
- 7 in case of a record compiled by a criminal law enforcement author-
- 8 ity in the course of a criminal investigation, confidential infor-
- 9 mation furnished only by the confidential source;
- 10 (E) disclose investigative techniques and procedures,

11 or

12 (F) endanger the life, physical safety, or property of

13 a person; *or property value*

14

15 (8) records of security systems and procedures established

16 for the purpose of the protection of persons or property, or securing a

17 penal institution or place of detention of persons accused or convicted

18 of a crime or persons under the jurisdiction of the court under AS 47.-

19 10, but only to the extent that disclosure would compromise the effec-

20 tiveness of the system;

21 *litigating* (9) attorney work product in the possession of a governmen-

22 tal unit; however, once the legal issue has been decided, or the liti-

23 gation has been terminated, attorney work product that does not involve

24 litigation strategy, mental impressions, or professional opinions of an

25 attorney, or a person working under the attorney's direction become

26 public records;

27 (10) any notes, memoranda, draft decisions, opinions, or

28 other similar documents prepared by a justice or a judge, or a person

29 working under the supervision of a justice or a judge, in the process

of deciding a legal issue;

1 (11) records related solely to the internal practices of a
2 governmental unit where the effect of disclosure would be to enable law
3 violators to escape detection;

4 (12) personal information in medical, psychological, and
5 sociological files maintained on individual persons, exclusive of
6 autopsy reports, except that access may not be denied to the person who
7 is the subject of the record, or ^{of the person's} (his) designee;

8 (13) records the disclosure of which would constitute an
9 intrusion into the collective bargaining process between public
10 employers and employees, including but not limited to grievance files
11 and materials used in contract negotiations; and

12 (14) records the disclosure of which would constitute an
13 unjustifiable invasion of personal privacy; in applying this exemption,
14 the governmental unit shall determine whether the public interest in
15 disclosure outweighs the privacy interest of the person to whom the
16 record pertains.

17 (b) If a governmental unit initially decides to disclose a record
18 to which the exemptions specified in (a)(7)(C) or (a)(14) of this
19 section may apply, and to the extent that it concludes that there is a
20 substantial probability that a person to whom the record pertains would
21 object to disclosure, it shall, in conformity with the time limitations
22 specified in AS 40.25.020, make diligent efforts to notify that person
23 and provide that person with an opportunity to argue against disclo-
24 sure. An affidavit of inquiry shall be made if the person is not
25 located. If the governmental unit decides to grant disclosure over
26 objection, it shall notify the objector by certified mail of its
27 decision. If the governmental unit decides not to grant disclosure,
28 and an action is subsequently brought under AS 40.25.070 to compel
29 disclosure, it shall make diligent efforts to inform the objector of

1 the suit.

2 Sec. 40.25.035. PROVISIONAL RELEASE OF INFORMATION.

3 (a) Unless specifically exempted from disclosure by state sta-
4 tute, all records become public after they are 50 years old.

5 (b) Information contained in records exempted from disclosure
6 under AS 40.25.030(a) may be released for valid statistical or other
7 information-gathering purposes if

8 (1) any information which would tend to identify the person
9 to whom the record pertains is deleted; and

10 (2) disclosure is made in a manner which would not com-
11 promise or defeat the purposes of a state statute designed to maintain
12 the confidentiality of the information.

13 (c) The exemptions from public disclosure provided in AS 40.25.-
14 030 or by other state law pertaining to the confidentiality of records,
15 do not preclude the release or production of subpoenaed records or
16 information to a state or municipal agency during the course of an
17 investigation.

18 (d) All information in personnel records of public employees
19 showing salary or compensation, job description, education and training
20 background, and previous work experience shall be open for public
21 inspection. Applications for public employment submitted by finalists
22 for employment are also open to public inspection, but potential
23 finalists shall be notified of this fact and of their right to withdraw
24 their application before public inspection. As used in this subsection,
25 "finalists" means the final three applicants under consideration for
26 employment or those applicants who remain under consideration for
27 employment after 90 percent of the original applicants have been elimi-
28 nated from consideration by the governmental unit, whichever is
29 greater.

1 (e) The fact that a crime has been committed, the name of the
2 crime, the time of commission and location, and the name of any person
3 who is charged with a crime is a matter of public information and
4 record, except as provided in AS 47.10.090.

5 Sec. 40.25.040. ACCESS TO RECORDS BY RECORD SUBJECT. (a) Except
6 as provided in (b) of this section, an individual or the individual's
7 authorized representative may examine or copy during the regular
8 business hours of the governmental unit, any record that pertains to
9 the individual. In implementing this section, the governmental unit
10 shall follow the procedures established in AS 40.25.015 - 40.25.020.

11 (b) A governmental unit is not required under (a) of this section
12 to disclose

13 (1) information exempt from disclosure under AS 40.25.-
14 030(a)(1) - (13), except to the extent that the information was sub-
15 mitted by the requester; however, for purposes of information that may
16 be exempt under AS 40.25.030(a)(6), under appropriate safeguards de-
17 signed to protect the integrity of the examination process, an indivi-
18 dual may examine that individual's test questions and answers in an
19 examination used for licensing or employment;

20 (2) information exempt from disclosure under AS 40.25.030-
21 (a)(14) that does not relate directly to the requester and which if
22 disclosed would constitute an unjustifiable invasion of another
23 person's personal privacy; or

24 (3) information that is subject to regulation under AS 12.-
25 62; access to this information is governed by the provisions of
26 AS 12.62.

27 (c) This section does not abridge any state statute that autho-
28 rizes an agency to withhold information from the parent or legal guar-
29 dian of a minor.

1 (d) If an individual requests a record containing information the
2 governmental unit is not required to disclose under (b) or (c) of this
3 section, the agency shall provide any reasonably segregable portion of
4 the record to the requester after deleting the undisclosed material.

5 Sec. 40.25.060. CORRECTION AND AMENDMENT OF RECORDS. (a) An
6 individual may request a governmental unit to correct or amend incom-
7 plete or inaccurate information pertaining to that individual if it is
8 contained in a record available under AS 40.25.040.

9 (b) Not later than 20 days after receiving a request from an
10 individual to correct or amend a record pertaining to that individual,
11 the governmental unit shall

12 (1) make the requested correction or amendment and inform
13 the individual of the action;

14 (2) inform the individual that the governmental unit does
15 not maintain the record and, if it knows, provide the name and location
16 of the governmental unit maintaining it; or

17 (3) inform the individual in writing of its refusal to
18 correct or amend the record as requested and the reason for the refusal;
19 if the governmental unit refuses to correct or amend the record, it
20 shall

21 (A) permit the individual to file with the record a
22 concise statement of that individual's reasons for the requested
23 correction or amendment and that individual's reasons for dis-
24 agreement with the refusal by the governmental unit; and

25 (B) notify the individual of the right to bring an
26 action under AS 40.25.070.

27 (c) Whenever a governmental unit discloses information to a third
28 party about which an individual has filed a statement under (b)(3)(A)
29 of this section, the governmental unit shall

1 (1) clearly identify the disputed portion of the informa-
2 tion;

3 (2) furnish a copy of the individual's statement; and

4 (3) furnish a concise statement of the governmental unit's
5 current position with respect to the request for correction or amend-
6 ment and transmit a copy of this statement to the last known address of
7 the individual whose record is disclosed.

8 Sec. 40.25.070. ENFORCEMENT: INJUNCTIVE RELIEF. (a) A person
9 having custody or control of a record, or a person not having custody
10 or control who aids or abets a person having custody may be enjoined in
11 superior court from

12 (1) obstructing or attempting to obstruct the inspection of
13 a record subject to inspection under this chapter;

14 (2) failing to correct or amend a record under AS 40.25.060.

15 (b) The court may charge no filing fee, and the Department of
16 Public Safety may charge no fee for service of process, from an appli-
17 cant seeking an injunction under this section. No security may be
18 required by the court from an applicant seeking an injunction under
19 this section. An applicant granted an injunction under this section is
20 entitled to recover costs and reasonable attorney fees from the govern-
21 mental unit.

22 (c) The superior court shall make available to an applicant, free
23 of charge, a simplified form for proceeding without counsel under this
24 section. The form shall require only identification of the applicant
25 and the name of the custodian alleged to be acting improperly, and a
26 simple explanation of the records sought or the correction or amendment
27 requested.

28 (d) In a suit brought under this section the court may enjoin
29 withholding of the records and order the production to the complainant

1 of records improperly withheld or order that the correction or amend-
2 ment be made. The court shall determine the matter de novo, and may
3 examine the contents of any records in camera to determine whether the
4 records or any portion of them may be withheld under any of the exemp-
5 tions specified in AS 40.25.030 or not corrected or amended under
6 AS 40.25.060. The burden is on the agency to sustain its action.

7 Sec. 40.25.080. CIVIL ACTION FOR OBSTRUCTION OF ACCESS TO RECORDS.

8 (a) A person who has been wrongfully denied access to a record under
9 this chapter has a civil cause of action against the person responsible
10 for the violation and is entitled to recover actual damages and reason-
11 able attorney fees and other reasonable litigation costs.

12 (b) A good faith reliance upon the provisions of this chapter or
13 of applicable law governing the confidentiality of public records is a
14 defense to a civil action brought under this section.

15 Sec. 40.25.090. DEFINITIONS. In this chapter, unless the context
16 otherwise requires,

17 (1) "attorney work product" means documents and tangible
18 things prepared by or for a governmental unit in anticipation of or
19 during litigation;

20 (2) "custodian" means the head of any governmental unit or
21 the designee of the head of a governmental unit;

22 (3) "governmental unit" means an agency, political subdivi-
23 sion, legislative body, board of regents, or an administrative body,
24 board, commission, committee, subcommittee, authority, council, agency,
25 or other organization, including subordinate units of these groups, of
26 the state, or any of its political subdivisions, including but not
27 limited to municipalities, boroughs, school boards, and all other
28 boards, agencies, assemblies, councils, departments, divisions, bureaus,
29 commissions or organizations, advisory or otherwise, of the state or

1 local government, or any organization supported in whole or in part by
2 public money or authorized to spend public money;

3 (4) "individual" means a natural person;

4 (5) "record" means any document, paper, memoranda, book,
5 letter, drawing, map, plat, photo, photographic file, motion picture,
6 film, microfilm, microphotograph, exhibit, magnetic or paper tape,
7 punched card, computer tape or information stored in a computer system,
8 or other document of any other material, regardless of physical form or
9 characteristic, developed or received under law or in connection with
10 the transaction of official business and preserved or appropriate for
11 preservation by a governmental unit as evidence of the organization,
12 function, policies, decisions, procedures, operations or other activi-
13 ties of the state or political subdivision or because of the informa-
14 tional value in them; it also includes staff manuals and instructions
15 to staff that directly or indirectly affect the public.

16 * Sec. 2. AS 44.62.310 is amended by adding a new subsection to read:

17 (g) Nothing in this section may be construed to prevent the hold-
18 ing of conferences between two or more public bodies, or their repre-
19 sentatives, but these conferences are subject to the same regulations
20 for holding executive or closed sessions as are applicable to any other
21 public body.

22 * Sec. 3. AS 44.62.310(c)(3) is amended to read:

23 (3) matters which by state statute [LAW, MUNICIPAL CHARTER,
24 OR ORDINANCE] are required to be confidential.

25 * Sec. 4. In sec. 1 of this Act, AS 40.25.070(b) has the effect of
26 changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure re-
27 lating to security deposits required in civil actions.

28 * Sec. 5. AS 09.25.110, 09.25.120, and 09.25.125 are repealed.

29 * Sec. 6. This Act takes effect July 1, 1981.

*video
voice recording*

2-17-81
Laura

Attending Senate State Affairs
Mark-Up SB 90

REED SCHONFELD
Frank Deaton
Elaine Deaton
Lou McHenry

DHSS PUCH H-016
114 2nd St. Juneau
114 2nd St. Juneau
1220 Glacier Ave * 111 Juneau

1
Mark Up - SB 90 FOIA

Members Present Sen. Fischer

Sen. Charlie Parr, Mark Widdow

Chairman Fischer outlines material: ① SB 90, ② proposed CSSB 90,
③ Barry Stearns version (Dept. of Law amendments)
④ LW/commentary
Sec. 1

{ - page 6 lines 15+16 + Throughout page }
Barry outlines critical nature

SB 90 p. 2 line 19-22 fees
CSSB 90 p. 2/19-25

at Van's request - CSSB 90 § 2.1.16+17 add "in person" + "verbally" or in writing

- CSSB 90 § 2.1.16 subsection (b) - Duty to search will be outlined in commentary

Van - fees - Ak legal sub. rec. - Waiving fees for the indigent CSSB 90 (d) page 2, line 19-25

SF covering exemptions - will wait until later →

SB 90 40.25.020 - Requests for records, line 15 p. 6

CSSB 90 page 6, line 10 allows 10 days

Administrative Remedies - allows 50 day delay before one may go to court

Senator Parr does not think it necessary

to allow 50 days. (SB 90, VF says is indefinite)

Suggested solutions - Barry notes ^{CS} Sec. 40-25, 020
(9) (page 2 line 23-25)

Undermining
Thrust
of bill.

Barry is afraid more time is necessary because of the sensitive nature of determinations (esp. Judicial Br.), & length of time required to decide.

Sen. Parr likes immediately because he feels a 10-day limit will create a 9 1/2 day lag.

Nan feels time limit should be established

Sen. Parr feels routing requests through Judicial will be good deterrent measure

SB 90 p. 7 l. 6,

Starr feels custodians will more quickly

CSBB p. 5 lines dealing w/ exemptions

Discussion of doubts about releasability of records emerges between Parr, Starr & Parr

Dept of Law

Danger! The citadel of sinister
secrecy is under attack!

- Dennis (Hospital records)
- Dept. of Labor

John Harthe elucidates two issues under
discussion

Sec. 40-25-020
 (a) → Time limit for turn over
 of records
 (b) → Time for admin review

Sen. Parr mentions obstacle provided
by appeal to head of G.U. - who
might not be in same town.

Sen. Parr

Sen. Fischer SB90 p. 6 line 16-19 see SB90
 + add CSSB 90
 p. 4 line 7 (d) p. 4 line 7 (d)

(SF)

SB90
 Sec 40-25-020 p. 6 line 15 as is
 allow for definition of "unusual
 circumstances", ~~add~~ in CSSB 90
 p. 4 (d) - add to line 14 - "amount
 or variety"

SB 90 MarkUp

Exemptions 40.25.030

designee in CS? How come tax records can't be accessed by subject or
Statement of Intent

clarity Exemptions section SB90 p. 2 line 25

~~legislature approves participation~~
in ~~state~~ fed. program + will
abide by fed. reqs of confidentiality in such
cases.

knocked out -
Fed law supercedes state anyway.

CS SB90 p. 5 ^{subsec} ~~5~~ (5) Δ

S. Parr

5 • subsec 5 - Governmental Unit
could abuse. "confidential"

See copy of SB 90 + CS to note
exemption changes

Note SB 90 p. 5/1: 7 - exemp. # 15
CS \rightarrow exemp. # 9

Tighter up definition of attorney
work product; still allowing access

"Right to privacy" SB 90 p. 4, (13) (c)
CS SB 90, p. 6. 1. 15 \rightarrow 21

Parr feels Barry's version (CS) leans
to much to right of privacy - No
conditions seem to outweigh right to
privacy

CS
- problem w section (d) p. 8, line 8710

What about medical records?

These can be protected by statute.

Sen. Parr p. 6/3(C)

lines 3-7

Public employee personnel records

↳ SB 50 - includes performance records

CS excludes performance

↳ BM exclude applicants for public employment. Should amend to

reflect applicants ~~perhaps~~ just finalists

performance evaluations as

a management tool by supervisors.

New category

Bumy -

(16)

Moderators limit witnesses to 5 min.

Dean Carter

- Define right of privacy
- burden of proof should be on gov't unit
- not opt out

Susan Fisher - Pres Farther U.

Clear guidelines

danger that exemptions would render bill meaningless

Howard Weaver

Tom Williams - local gov'ts

John Newstrom - injunctive relief.
specific points
- separation of fees &

Ted Berns
- addit. test in writing by the end of next week
- send copy of ^{Fuel For I.} ~~test~~ ^{ord.}
- send comments in writing

Debra Nelson

Steve Reinhart - ~~we~~ provide us w/ specific recommend. w/ respect to

Bob Lehr

Leo Land Haines - Ady bend

Glen S

Kent Surges

Association
appreciate your endorsement!

INVITE WRITTEN COMMENTS & SPECIFIC REC.

Names & address of indiv. applic. to priv. business

labor negotiations

KOTZEBUE (Camille)

MAT-SU (MARY)

MARK HARRIS - VALLEY SUW / FRONTIERSMAN

NOME (GARY)

STAN SUMMERS KICY

ANCHORAGE (MICKI)

HOWARD WEAVER - ANCH. DAILY NEWS

✓ BOB LOHR - RURAL CAP

✓ Kay Fanning [Field Pickney]

TED BERNIS

- MATT ZENTSI (SP?)

- MARK BELTZ

FAIRBANKS (TAMMY)

✓ DEAN GODDARD - AK. FREEDOM
GOTTFRIDER OF INFO. TABIC FORCE

✓ SCOTT STERLING

✓ JANIE BRYSON

✓ KENT STURGIS

✓ SUSAN FISHER

✓ TOM SNAPP

✓ BRUCE WOMACK

BARROW

5/6/90

SITKA (Charlie)
✓ RAY MEDLIN
✓ LUCINDA HITES

BETHEL (Cheryl)
NONE

YALDEZ

DILLINGHAM (Anna May)
NONE

SOLDOTNA (Shari)
✓ STEVE REINHART
X JOAN BENNET SHRADEZ COBSEKROG

HAINES
✓ LEO LAND

~~HOMER (NADINE)~~
✓ Anna BELL LUND, HOMER NEWS

~~KETCHIKAN (BONNIE)~~
~~LOU WILLIAMS, KTN DAILY NEWS~~
✓ LEW
✓ CHRISTINE METZLER

~~KODIAK (MARY)~~
✓ DEBRA NELSON, KODIAK DAILY MIA
✓ JON NEWSTROM, KMXT₂

TELECONFERENCE PROCEDURES

Participating in a teleconference is a relatively simple procedure, with only a few basic rules and protocols required for effective participation. Please note the following:

HAVE YOU SIGNED-IN? Witnesses and observers should complete sign-in sheets.

TO BEGIN A TELECONFERENCE Prior to the beginning of the telemeeting, the Primary Teleconference Moderator will poll each of the participating sites and share pertinent information. The teleconference is then turned over to the meeting/hearing Chairman, who calls the teleconference to order and proceeds with his or her agenda (which has previously been copied to each site).

ORDER OF APPEARANCE The Chairman will announce the order of witness participation, and call upon each site when appropriate.

TIME LIMITS The Chairman may request that testimony be limited to a certain length of time; it is important to participate within such constraints.

PROCEDURE When you are called upon to testify, take a chair at the nearest microphone, or, if you are already seated at the table, set the nearest mike in front of you. The Moderator will already have given instructions on the operation of the microphones.

Speak directly into the mike from a distance of about 3 inches.

Before beginning your testimony, state your name and who you are representing. Try to remember to identify yourself each time you speak.

Indicate to the Chairman when you have concluded your testimony.

There may be questions from the Chairman and/or other information exchange between sites. Pause briefly before responding to questions, to allow for lag in voice transmission. The system will not accommodate two simultaneous conversations.

TESTIMONY FROM OTHER SITES Testimony from other sites can be heard at all times from your teleconference center. Mikes are open here only when witnesses are testifying, but since some of the people attending are interested in the testimony from other sites, please don't converse while other sites are "talking".

If you find it necessary to interject comment/response that is outside the planned agenda, to avoid undue interruption it is appropriate to signal or send a note to your Moderator, indicating your desire to so participate.

WRITTEN TESTIMONY Comments on bills, back-up material or other documentation on the teleconference may be sent to the LTN Coordinator, Pouch Y, Juneau 99811. If the teleconference is a public hearing, written testimony/material may be sent to the Legislative Committee Chairman, Pouch V, Juneau 99811.

FUTURE TELECONFERENCES Teleconferences are scheduled and coordinated through the Legislative Teleconference Coordinator, Room 30, Capitol, telephone: 465-4890.

*****TELECONFERENCES ARE NOT DIFFERENT FROM FACE-TO-FACE MEETINGS WHERE IT IS IMPORTANT TO FOLLOW THE AGENDA AND THE TOPIC. IF BACK-UP MATERIAL HAS BEEN PROVIDED PRIOR TO THE CONFERENCE, BE SURE TO FAMILIARIZE YOURSELF WITH IT, SO AS TO AVOID STRAYING FROM THE SUBJECT MATTER AND THUS CAUSING DELAY OR DETRACTING FROM THE MEETING.*****

Barry Stern, Dept of Law
 Admin strongly supports
 Guidelines for courts
 to determine the
 scope of right to
 privacy

Timelines
 Notific. of persons affected
 Written statement
 Too many exemptions -
 - few, broad.

Elizabeth Cuadra
 LWV Alaska

~~EARL DETER~~

degree of in

Requ. by fed
 laws & regs
 to be kept
 confid.

Bill applies to
 municipalities.
 → H. R.

reimb muni for
 cost of copying

NO OBJECT. TO ACHIEVE

Ms Roland Shanks.

#

Introduced: 1/15/81
Referred: State Affairs and
Judiciary

BY PARR, FISCHER, STIMSON
AND RODEY

1 IN THE SENATE

2 SENATE BILL NO. 90

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to privacy and public information;
7 and changing Rule 65 of the Alaska Supreme Court Rules
8 of Civil Procedure."

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

10 * Section 1. AS 40 is amended by adding a new chapter to read:

11 CHAPTER 25. PRIVACY AND PUBLIC INFORMATION.

12 Sec. 40.25.010. STATE POLICY. It is the policy of the state that

- 13 (1) all governmental units exist to aid in the conduct of
- 14 the people's business;
- 15 (2) the people of this state do not yield their sovereignty
- 16 to the agencies which serve them;
- 17 (3) the people, in delegating authority, do not give their
- 18 public servants the right to decide what is best for the people to know
- 19 and what is best for them not to know;
- 20 (4) the people's right to remain informed shall be protected
- 21 so that they may retain control over the instruments they have created,
- 22 (5) the people's right to privacy as provided by the consti-
- 23 tution is recognized and shall not be infringed;
- 24 (6) the records of governmental units shall be open for
- 25 public inspection unless the inspection infringes on a person's right
- 26 to privacy or is otherwise prohibited by statute.

27 Sec. 40.25.015. RECORDS TO BE OPEN TO INSPECTION; EXCEPTIONS.

- 28 ✓ (a) Except as otherwise specifically provided by statute, all records
- 29 are open to inspection and copying by any person during the regular

No provision
for "finding"
"locking"
records

1 office hours of the lawful custodian of the records or his designee,
2 → unless the inspection infringes on a person's right to privacy. The
3 custodian of the records shall take all necessary precautions for their
4 preservation and safekeeping.

5 → (b) Every custodian of records shall make them available for
6 public inspection and shall give a copy of the record on request and
7 payment of fees, if any. A custodian shall permit memoranda, trans-
8 cripts, and copies of the public writings and records in his office to
9 be reproduced in any reasonable manner. In addition, a custodian shall
10 furnish proper and reasonably accessible facilities for inspection of
11 records, subject to reasonable restrictions, as are necessary for the
12 protection of the writings and records and to prevent interference with
13 the regular discharge of the duties of the custodian and his employees.
14 If a certified copy is requested, that copy is in all cases evidence of
15 the original.

16 ✓ (c) Copies of records *in person or* be requested by telephone, electronic
17 communication, or by mail. These request shall be treated in accor-
18 dance with the provisions of (a) and (b) of this section.

19 (d) The commissioner of administration shall prescribe a uniform
20 schedule of fees to be limited to reasonable standard charges for docu-
21 ment duplication, and provide for recovery of only the direct cost of
22 the duplication. *Under 100 pp free - above 100, at cost w/*

23 → (e) The following records are excluded from the provisions of *if in*
24 this section: *public interest or in case of affidavits of indignity*

25 ✓ (1) those exempted from disclosure by state statute;

26 ✓ (2) any tax or information return, or record or report re-
27 lating to that return, which is required to be filed in accordance with
28 the provisions of AS 43 or municipal ordinance, except that access may
29 not be denied to the person who is the subject of the records, or that

- 1 person's designee;
- 2
- 3 (3) subject to (1) of this section personal information in
- 4 files maintained on public employees, except that access may not be
- 5 denied to the person who is the subject of the records, or that person's
- 6 designee;
- 7 (4) personal information in files maintained on students in
- 8 public schools, except that access may not be denied to the student, a
- 9 parent or guardian of the student, a person responsible for supervising
- 10 the student, or his designee;
- 11 (5) personal information in files maintained on students at
- 12 the University of Alaska, except that access may not be denied to the
- 13 student or his designee;
- 14 (6) personal information in medical, psychological, and
- 15 sociological files maintained on individual persons, exclusive of
- 16 autopsy reports, except that access may not be denied to the person who
- 17 is the subject of the record, or his designee, [or to the parent or
- 18 guardian of a minor who is the subject of the record except where this
- 19 access would violate the physician-patient privilege;]
- 20 (7) personal information in files maintained on recipients
- 21 of social services, ^{? - and public ben. file} except that access may not be denied to the person
- 22 who is the subject of the records, or his designee;
- 23 (8) personal information similar to personal information in
- 24 files under (3) - (7) of this subsection, except that access may not be
- 25 denied to the person who is the subject of the records, or that person's
- 26 designee;
- 27 (9) archival materials donated by natural persons to the
- 28 extent of any written limitations placed on them as a condition of the
- 29 contribution; however, all archival materials become public information
- after not more than 50 years and any statement of limitations must be



vs. Sup. Ct. parents cannot have access to birth records and abortion records of minor w/ 09.65.180

applicants for

1 produced upon denial of access;

2 (10) circulation records maintained by public libraries,
3 public school libraries, and University of Alaska libraries showing
4 personal transactions by those borrowing from them;

5 (11) trade secrets, privileged information and confidential
6 commercial, financial, geological or geophysical data furnished in com-
7 pliance with state statute or regulation, or in compliance with a
8 municipal ordinance; ← (A)

9 (12) test questions and answers to be used in a future li-
10 cense, employment or academic examination;

11 (13) intelligence, investigatory and original entry records,
12 maintained by state or municipal law enforcement agencies, or any other
13 governmental unit, but only to the extent that the production of the
14 records would

15 (A) interfere with enforcement proceedings;

16 (B) deprive a person of a right to a fair trial or an
17 impartial adjudication;

18 (C) constitute an unjustifiable intrusion into a per-
19 son's right of privacy;

20 (D) disclose the identity of a confidential source and,
21 in case of a record compiled by a criminal law enforcement author-
22 ity in the course of a criminal investigation, confidential infor-
23 mation furnished only by the confidential source;

24 (E) disclose investigative techniques and procedures;

25 (F) endanger the life, property, or physical safety of
26 a person;

27 (G) identify a victim of a criminal sexual assault;

28 (H) disclose any information otherwise exempt under
29 this chapter or state statute;

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(14) records of security systems and procedures established for the purpose of the protection of persons or property, or securing a penal institution or place of detention of persons accused or convicted of a crime or persons under the jurisdiction of the court under AS 47.-10, but only to the extent that disclosure would compromise the effectiveness of the system;

(15) attorney work product in the possession of a governmental unit, until the matter occasioning the preparation of the work product is closed;

(16) any notes, memoranda, draft decisions, opinions, or other similar documents prepared by a justice or a judge, or a person working under his supervision, in the process of deciding any legal issue; however, once the legal issue has been decided all notes, memoranda, draft decisions, opinions, or similar documents become public records under rules established by the supreme court;

(17) records related solely to the internal practices of a governmental unit where the effect of disclosure would be to enable law violators to escape detection.

(f) Unless specifically exempted from disclosure by statute, all records become public after they are 20 years old.

(g) Information contained in records exempted from disclosure under (e) of this section may be released for valid statistical or other information-gathering purposes if

(1) any information which would tend to identify the person to whom the record pertains is deleted; and

(2) disclosure is made in a manner which would not compromise or defeat the purposes of any statute designed to maintain the confidentiality of the information.

(h) The exceptions provided in this section do not preclude the

*JS. Comm
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decisions
is*

*-5- SB 90
exclusions, exemptions
Consent
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~~FINALISTS~~
9 Applicants for public positions

release or production of subpoenaed records or information to a state or municipal agency during the course of an investigation;

(i) All personnel records showing salary or compensation for that concern the employee's current performance or ability to perform the duties and responsibilities of his job shall be open for public inspection. This public access is not an infringement of a person's right to privacy.

(j) The fact that a crime has been committed, the name of the crime the time of commission and location, the name of any victim (unless the victim of a criminal sexual assault) and the name of any person who is charged with the crime is a matter of public information and record, except as provided in AS 47.10.090.

Sec. 40.25.020. REQUESTS FOR RECORDS. (a) Each governmental unit, upon any request for records made under this section, shall

- (1) produce the record immediately; or
- (2) ~~if the record is in active use or storage and not available~~ ^{cannot be made} if in the case of unusual circumstances the records may be made available at the time a request to examine it is made, the custodian shall at that time state this fact in writing to the applicant and ~~the applicant may set a date and hour at which the record may be examined~~ ^{not to exceed 5 days}

(b) A person making a request to a governmental unit for records under this section is considered to have exhausted his administrative remedies with respect to the request if the governmental unit fails to comply with this section. If the governmental unit can show that exceptional circumstances exist and that it is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the governmental unit additional time to complete its review of the records. Upon a determination by a governmental unit to comply with a request for records, the records shall be made promptly available to the person making the request.

as ⁻⁶⁻ promptly as possible ^{fund deadline?}
SB 90

?
messing

40,25,015

1 (c) When the lawful custodian of a record determines that contents
2 of a record exempt it under the provisions of AS 42.05.015, he shall
3 also determine whether a deletion of the exempt parts of the record
4 will make the record suitable for release, and, if so, the deletion
5 shall be made and the record released, with the notation that exempt
6 material has been removed. If the custodian determines that the record,
7 or a portion of the record, is not open to inspection, he shall, in a
8 certified writing, inform the person requesting the records of his
9 determination, of the statutory basis for this decision, and that under
10 AS 40.25.025 a suit may be brought to compel production of records that
11 are improperly withheld.

12 (d) A notification of denial of a request for records under this
13 section shall set out the names and titles or positions of each person
14 responsible for the denial of the request.

15 Sec. 40.25.025. ENFORCEMENT: INJUNCTIVE RELIEF. (a) A person
16 having custody or control of a record who obstructs or attempts to
17 obstruct, or a person not having custody or control who aids or abets
18 another person in obstructing or attempting to obstruct, the inspection
19 of a record subject to inspection under AS 40.25.015 may be enjoined by
20 the superior court from obstructing, or attempting to obstruct, the
21 inspection of records subject to inspection under AS 40.25.015.

22 (b) The court may charge no filing fee, and the Department of
23 Public Safety may charge no fee for service of process, from an appli-
24 cant seeking an injunction under this section. No security may be
25 required by the court from an applicant seeking an injunction under
26 this section. If the applicant is granted the injunction, he shall be
27 entitled to recover costs and ^{actual} reasonable attorney fees from the govern-
28 mental unit. *Rule 82 already allows*

29 (c) The superior court shall make available to an applicant, free

1 of charge, a simplified form for proceeding without counsel under this
2 section. The form shall require only identification of the applicant
3 and the name of the custodian alleged to be improperly withholding
4 records, and a simple explanation of the records sought.

5 (d) In a suit brought under this section the court may enjoin
6 withholding of the records and order the production to the complainant
7 of records improperly withheld. In such a case the court shall de-
8 termine the matter de novo, and may examine the contents of any records
9 in camera to determine whether the records or any portion of them may
10 be withheld under any of the exceptions set out in AS 40.25.015, and
11 the burden is on the agency to sustain its action. *— should receive*

12 Sec. 40.25.035. CIVIL ACTION FOR OBSTRUCTION OF ACCESS TO RECORDS.

13 (a) A person who has been wrongfully denied access to a record under
14 this chapter has a civil cause of action against the person responsible
15 for the violation and is entitled to recover actual damages and reason-
16 able attorney fees and other reasonable litigation costs. *actual*

17 (b) A good faith reliance upon the provisions of this chapter or
18 of applicable law governing the confidentiality of public records is a
19 defense to a civil action brought under this section.

20 Sec. 40.25.040. DEFINITIONS. In this chapter, unless the context
21 otherwise requires,

22 (1) "attorney work product" means documents and tangible
23 things prepared by or for a governmental unit in anticipation of or
24 during litigation;

25 (2) "custodian" means the head of any governmental unit or
26 his designee;

27 (3) "governmental unit" means an agency, political subdivi-
28 sion, legislative body, board of regents, or an administrative body,
29 board, commission, committee, subcommittee, authority, council, agency,

was a priority matter
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define ① "public employment" cover
state and municipal, etc
② "social services
incl. pub assist, long-term
bonuses, etc -

1 or other organization, including subordinate units of the above groups,
2 of the state or any of its political subdivisions, including but not
3 limited to municipalities, boroughs, school boards, and all other
4 boards, agencies, assemblies, councils, departments, divisions, bureaus,
5 commissions or organizations, advisory or otherwise, of the state or
6 local government supported in whole or in part by public money or
7 authorized to spend public money;

8 (4) "personal information" means information about an indi-
9 vidual person, the disclosure of which would constitute an unjustifiable
10 intrusion into a person's right of privacy;

11 (5) "record" means any document, paper, memoranda, book,
12 letter, drawing, map, plat, photo, photographic file, motion picture,
13 film, microfilm, microphotograph, exhibit, magnetic or paper tape,
14 punched card, or other document of any other material, regardless of
15 physical form or characteristic, developed or received under law or in
16 connection with the transaction of official business and preserved or
17 appropriate for preservation by a governmental unit as evidence of the
18 organization, function, policies, decisions, procedures, operations or
19 other activities of the state or political subdivision or because of
20 the informational value in them; it also includes staff manuals and
21 instructions to staff that directly or indirectly affect the public.

22 * Sec. 2. AS 44.62.310 is amended by adding a new subsection to read:

23 (g) Nothing in this section may be construed to prevent the hold-
24 ing of conferences between two or more public bodies, or their repre-
25 sentatives, but these conferences are subject to the same regulations
26 for holding executive or closed sessions as are applicable to any other
27 public body.

28 * Sec. 3. AS 44.62.310(c)(3) is amended to read:

29 (3) matters which by state statute [LAW, MUNICIPAL CHARTER,

act in
limited
guilt

computer
papers and
printouts

*deals w/ tampering
w/ public records*

1 OR/ORDINANCE] are required to be confidential.

2 * Sec. 4. AS 11.56.820 is amended by adding a new subsection to read:

3 (c) It is an affirmative defense to a prosecution under this
4 section that the defendant relied in good faith upon the provisions of
5 AS 40.25 or of other law governing the confidentiality of public
6 records.

7 * Sec. 5. In sec. 1 of this Act, AS 40.25.025(b) has the effect of
8 changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure re-
9 lating to security deposits required in civil actions.

10 * Sec. 6. AS 09.25.110, 09.25.120, and 09.25.125 are repealed.

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*This defense should
apply only to
impairing availability
of public records,
not tampering.*

*Leg. Aff Lib.
Act*

Groszke

*files of
Legislators*

Introduced: 1/15/81
Referred: State Affairs and
Judiciary

BY PARR, FISCHER, STIMSON
AND RODEY

1 IN THE SENATE

2 SENATE BILL NO. 90

but does

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to privacy and public information;
7 and changing Rule 65 of the Alaska Supreme Court Rules
8 of Civil Procedure."

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

10 * Section 1. AS 40 is amended by adding a new chapter to read:

11 CHAPTER 25. PRIVACY AND PUBLIC INFORMATION.

12 Sec. 40.25.010. STATE POLICY. It is the policy of the state that

- 13 (1) all governmental units exist to aid in the conduct of
- 14 the people's business;
- 15 (2) the people of this state do not yield their sovereignty
- 16 to the agencies which serve them;
- 17 (3) the people, in delegating authority, do not give their
- 18 public servants the right to decide what is best for the people to know
- 19 and what is best for them not to know;
- 20 (4) the people's right to remain informed shall be protected
- 21 so that they may retain control over the instruments they have created;
- 22 (5) the people's right to privacy as provided by the consti-
- 23 tution is recognized and shall not be infringed;
- 24 (6) the records of governmental units shall be open for
- 25 public inspection unless the inspection infringes on a person's right
- 26 to privacy or is otherwise prohibited by statute.

27 Sec. 40.25.015. RECORDS TO BE OPEN TO INSPECTION; EXCEPTIONS.

28 (a) Except as otherwise specifically provided by statute, all records
29 are open to inspection and copying by any person during the regular

Decisions

Kenai Borough v

Kenai newspapers

Anch Daily News v City Municipal of Anch

Nancy Carlson

1 office hours of the lawful custodian of the records or his designee
2 unless the inspection infringes on a person's right to privacy. The
3 custodian of the records shall take all necessary precautions for their
4 preservation and safekeeping.

Commerce
15-10-90-903

5 (b) Every custodian of records shall make them available for
6 public inspection and shall give a copy of the record on request and
7 payment of fees, if any.] A custodian shall permit memoranda, trans-
8 cripts, and copies of the public writings and records in his office to
9 be reproduced in any reasonable manner. In addition, a custodian shall
10 furnish proper and reasonably accessible facilities for inspection of
11 records, subject to reasonable restrictions, as are necessary for the
12 protection of the writings and records and to prevent interference with
13 the regular discharge of the duties of the custodian and his employees.
14 If a certified copy is requested, that copy is in all cases evidence of
15 the original. *No requirement to find records*

16 (c) Copies of records may be requested by telephone, electronic
17 communication, or by mail. *in person verbally or written* These requests shall be treated in accor-
18 dance with the provisions of (a) and (b) of this section.

19 (d) The commissioner of administration shall prescribe a uniform
20 schedule of fees to be limited to reasonable standard charges for docu-
21 ment duplication, and provide for recovery of only the direct cost of
22 the duplication. *100 % go. affidavit*

done

23 (e) The following records are excluded from the provisions of
24 this section:

- 25 (1) those exempted from disclosure by state statute
- 26 (2) any tax or information return, or record or report re-
27 lating to that return, which is required to be filed in accordance with
28 the provisions of AS 43 or municipal ordinance, except that access may
29 not be denied to the person who is the subject of the records, or that

*Access to records
Regulation
of records*

list specific ct. rule

1 person's designee;

2 (3) subject to (1) of this section personal information in
3 files maintained on public employees, except that access may not be
4 denied to the person who is the subject of the records, or that person's
5 designee;

6 (4) personal information in files maintained on students in
7 public schools, except that access may not be denied to the student, a
8 parent or guardian of the student, a person responsible for supervising
9 the student, or his designee;

10 (5) personal information in files maintained on students at
11 the University of Alaska, except that access may not be denied to the
12 student or his designee;

13 (6) personal information in medical, psychological, and
14 sociological files maintained on individual persons, exclusive of
15 autopsy reports, except that access may not be denied to the person who
16 is the subject of the record, or his designee. ~~or to the parent or~~
17 ~~guardian of a minor who is the subject of the record except where this~~
18 ~~access would violate the physician-patient privilege.~~ *applicant*

19 (7) personal information in files maintained on recipients
20 of social services *public benefits*, except that access may not be denied to the person
21 who is the subject of the records, or his designee;

22 (8) personal information similar to personal information in
23 files under (3) - (7) of this subsection, except that access may not be
24 denied to the person who is the subject of the records, or that person's
25 designee;

26 (9) archival materials donated by natural persons to the
27 extent of any written limitations placed on them as a condition of the
28 contribution; however, all archival materials become public information
29 after not more than 50 years, and any statement of limitations must be

*inconsistent
w/ ex. statute
law
9.65.108*

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cite!!!

*Studies
on other
non-expropriation
matters
of natural resources &
will not include info related to
safety.*

1 produced upon denial of access;

2 (10) circulation records maintained by public libraries,
3 public school libraries, and University of Alaska libraries showing
4 personal transactions by those borrowing from them;

5 (11) trade secrets, privileged information and confidential
6 commercial, financial, geological, or ^{engineering} geophysical data furnished in com-
7 pliance with state statute or regulation, or in compliance with a
8 municipal ordinance; *provided that this exemption will be*

strictly limited to information obtained from extraction or development

9 (12) test questions and answers to be used in a future li-
10 cense, employment or academic examination;

11 (13) ~~intelligence, investigatory and original entry records,~~
12 ~~maintained by state or municipal law enforcement agencies, or any other,~~
13 ~~governmental unit,~~ but only to the extent that the production of the
14 records would

*not denied
to whom
about*

check

15 (A) interfere with enforcement proceedings;

16 (B) deprive a person of a right to a fair trial or an
17 impartial adjudication;

18 (C) constitute an unjustifiable intrusion into a per-
19 son's right of privacy; *remove (Prof. Journalists)*

20 (D) disclose the identity of a confidential source and,
21 in case of a record compiled by a criminal law enforcement author-
22 ity in the course of a criminal investigation, confidential infor-
23 mation furnished only by the confidential source;

24 (E) disclose investigative techniques and procedures;

25 (F) endanger the life, property, or physical safety of
26 a person;

27 ~~(G) identify a victim of a criminal sexual assault;~~

28 (H) disclose any information otherwise exempt under
29 this chapter or state statute;

*potentially
excludes
original
copy police
held - 1st
taken into custody*

*clarify
pg 5 line
546*

1 (14) records of security systems and procedures established
2 for the purpose of the protection of persons or property, or securing a
3 penal institution or place of detention of persons accused or convicted
4 of a crime or persons under the jurisdiction of the court under AS 47.-
5 10, but only to the extent that disclosure would compromise the effec-
6 tiveness of the system; ~~who judges~~

7 (15) attorney work product in the possession of a governmental
8 unit, until the matter occasioning the preparation of the work product
9 is closed; ~~Network Barry~~

10 (16) any notes, memoranda, draft decisions, opinions, or
11 other similar documents prepared by a justice or a judge, or a person
12 working under his supervision, in the process of deciding any legal
13 issue; however, once the legal issue has been decided all notes, mem-
14 oranda, draft decisions, opinions, or similar documents become public
15 records under rules established by the supreme court; ~~alters common law~~

16 (17) records related solely to the internal practices of a
17 governmental unit where the effect of disclosure would be to enable law
18 violators to escape detection.

19 (f) Unless specifically exempted from disclosure by statute, all
20 records become public after they are 20 years old. ~~except medical records~~
~~excluded~~

21 (g) Information contained in records exempted from disclosure
22 under (e) of this section may be released for valid statistical or
23 other information-gathering purposes if

24 (1) any information which would tend to identify the person
25 to whom the record pertains is deleted; and

26 (2) disclosure is made in a manner which would not compromise
27 or defeat the purposes of any statute designed to maintain the confi-
28 dentiality of the information.

29 The exceptions provided in this section do not preclude the

fee 100 pages free
waived
public in the public interest
inability of person to pay

release or production of subpoenaed records or information to a state or municipal agency during the course of an investigation;

all employment job related information & application records for public employees

(i) All personnel records showing salary or compensation or that concern the employee's current performance or ability to perform the duties and responsibilities of his job shall be open for public inspection. This public access is not an infringement of a person's right to privacy. *but finalists*

(j) The fact that a crime has been committed, the name of the crime, the time of commission and location, the name of any victim (unless the victim of a criminal sexual assault) and the name of any person who is charged with the crime is a matter of public information and record, except as provided in AS 47.10.090.

Sec. 40.25.020. REQUESTS FOR RECORDS. (a) Each governmental unit, upon any request for records made under this section, shall

- (1) produce the record immediately; or
- (2) if the record is in active use or storage and not available at the time a request to examine it is made, the custodian shall at that time state this fact in writing to the applicant and the applicant may set a date and hour at which the record may be examined.

(b) A person making a request to a governmental unit for records under this section is considered to have exhausted his administrative remedies with respect to the request if the governmental unit fails to comply with this section. If the governmental unit can show that exceptional circumstances exist and that it is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the governmental unit additional time to complete its review of the records. Upon a determination by a governmental unit to comply with a request for records, the records shall be made promptly available to the person making the request,

with provided that not exceed 10 calendar days from date of receipt of the request

application records for public employees
Position of gov. of public employees

unusual circumstances

duplicate not to exceed 5 days

ded. attorney

6/22/72
Gottschalk
Kuttara
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Barrett

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(c) When the lawful custodian of a record determines that contents of a record exempt it under the provisions of AS 42.05.015, he shall ~~delete the exempt parts, release the remaining portions~~ also determine whether a deletion of the exempt parts of the record will ~~make the record suitable for release, and, if so, the deletion shall be made and the record released, with the notation that exempt material has been removed.~~ If the custodian determines that the record, or a portion of the record, is not open to inspection, he shall, in a certified writing, inform the person requesting the records of his determination, of the statutory basis for this decision, and that under AS 40.25.025 a suit may be brought to compel production of records that are improperly withheld.

(d) A notification of denial of a request for records under this section shall set out the names and titles or positions of each person responsible for the denial of the request.

Sec. 40.25.025. ENFORCEMENT: INJUNCTIVE RELIEF. (a) A person having custody or control of a record who obstructs or attempts to obstruct, or a person not having custody or control who aids or abets another person in obstructing or attempting to obstruct, the inspection of a record subject to inspection under AS 40.25.015 may be enjoined by the superior court from obstructing, or attempting to obstruct, the inspection of records subject to inspection under AS 40.25.015.

(b) The court may charge no filing fee, and the Department of Public Safety may charge no fee for service of process, from an applicant seeking an injunction under this section. No security may be required by the court from an applicant seeking an injunction under this section. If the applicant is granted the injunction, he shall be entitled to recover costs and ~~reasonable~~ ^{actual} attorney fees from the governmental unit.
Rule 82

(c) The superior court shall make available to an applicant, free

1 of charge, a simplified form for proceeding without counsel under this
2 section. The form shall require only identification of the applicant
3 and the name of the custodian alleged to be improperly withholding
4 records, and a simple explanation of the records sought.

5 (d) In a suit brought under this section the court may enjoin
6 withholding of the records and order the production to the complainant
7 of records improperly withheld. In such a case the court shall de-
8 termine the matter de novo, and may examine the contents of any records
9 in camera to determine whether the records or any portion of them may
10 be withheld under any of the exceptions set out in AS 40.25.015, and
11 the burden is on the agency to sustain its action. *Priority*

12 Sec. 40.25.035. CIVIL ACTION FOR OBSTRUCTION OF ACCESS TO RECORDS.

13 (a) A person who has been wrongfully denied access to a record under
14 this chapter has a civil cause of action against the person responsible
15 for the violation and is entitled to recover actual *or punitive* damages and ~~reason-~~
16 *actual* able attorney fees and other *actual* reasonable litigation costs.

17 (b) A good faith reliance upon the provisions of this chapter or
18 of applicable law governing the confidentiality of public records is a
19 defense to a civil action brought under this section.

20 Sec. 40.25.040. DEFINITIONS. In this chapter, unless the context
21 otherwise requires,

22 (1) "attorney work product" means documents and tangible
23 things prepared by or for a governmental unit in anticipation of or
24 during litigation;

25 (2) "custodian" means the head of any governmental unit or
26 his designee;

27 (3) "governmental unit" means an agency, political subdivi-
28 sion, legislative body, board of regents, or an administrative body,
29 board, commission, committee, subcommittee, authority, council, agency,

define 4
Public employment - any employees of state or any political subdivision
social services not just divisions

hattered women

or other organization, including subordinate units of the above groups, of the state or any of its political subdivisions, including but not limited to municipalities, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local government supported in whole or in part by public money or authorized to spend public money;

funded by state grants or contracts

(4) "personal information" means information about an individual person, the disclosure of which would constitute an unjustifiable intrusion into a person's right of privacy;

(5) "record" means any document, paper, memoranda, book, letter, drawing, map, plat, photo, photographic file, motion picture, film, microfilm, microphotograph, exhibit, magnetic or paper tape, punched card, or other document of any other material, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business and preserved or appropriate for preservation by a governmental unit as evidence of the organization, function, policies, decisions, procedures, operations or other activities of the state or political subdivision or because of the informational value in them; it also includes staff manuals and instructions to staff that directly or indirectly affect the public.

keep computer or print out info stored in a computer system

* Sec. 2. AS 44.62.310 is amended by adding a new subsection to read:

(g) Nothing in this section may be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences are subject to the same regulations for holding executive or closed sessions as are applicable to any other public body.

what does it mean

* Sec. 3. AS 44.62.310(c)(3) is amended to read:

(3) matters which by state statute [LAW, MUNICIPAL CHARTER,

1 OR ORDINANCE] are required to be confidential.

2 * Sec. 4. AS 11.56.920 is amended by adding a new subsection to read:

3 (c) It is an affirmative defense to a prosecution under this
4 section that the defendant relied in good faith upon the provisions of
5 AS 40.25 or of other law governing the confidentiality of public
6 records.

*↳ defense limited in application
only to impairing the availability
of public record*

7 * Sec. 5. In sec. 1 of this Act, AS 40.25.025(b) has the effect of
8 changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure re-
9 lating to security deposits required in civil actions.

10 * Sec. 6. AS 09.25.110, 09.25.120, and 09.25.125 are repealed.

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{ April 14, 1982 }

Steinman -

Chapter on "Organization of State
Government"

Organization Design -
Criteria for State Govt. } Full range of Service
Heterogeneous
great geographical distances
Responsive Management Mode
Govt -

Regionalization - only the means to
an end

Increasing size of Population - }
Shifts in Distribution - }

Current Distribution

DISTRIBUTION OF STATE GOVERNMENT POSITIONS,
STATEWIDE AND JUNEAU, BY DEPARTMENT, 1982

Department	Positions								
	Statewide				Juneau				
	1. Total	2. Central	3. Central as % of Total	4. Reg'l- Local	5. Central	6. Central as % of State total	7. Central as % of State Central	8. Reg'l- Local	9. Juneau R-L as % of State R-L
Governor	243	187	77%	56	172	71%	92%	6	11%
Administration	1020	555	54	465	426	42	77	10	2
Law	303	101	33	202	75	25	74	20	10
Revenue	382	245	64	137	149	39	61	18	13
Education	490	337	69	153	290	59	86	5	3
HSS	2057	375	18	1682	291	14	78	151	9
Labor	753	215	37	478	265	35	96	107	22
CEC	435	373	86	62	137	31	37	9	15
Mil. Aff.	122	122	100	0	12	10	10	0	0
DNR	1055	634	60	421	32	3	5	42	10
ADFG	1730	196	11	1534	183	11	93	158	10
Pub. Saf.	1006	199	20	807	75	7	38	65	8
DOT/PF	3446	354	10	3092	267	8	75	398	13
DEC	234	101	43	133	99	42	98	12	9
CRA	195	130	67	65	62	32	48	17	26
Leg. Br.	377	321	85	56	312	83	97	10	18
Jud. Br.	540	-	-	-	-	-	-	-	-
Totals 1982	14388	4505	31%	93.3	2847	20%	63%	1028	11%

PERCENTAGE CHANGES, 1977-1982

	<u>1977</u>	<u>1982</u>	<u>% Change</u>
Central Positions	3855	4505	+17%
Regional-Local Positions	7450	9883	+33%
Totals	11305	14388	+27%
Juneau Central Positions	2647	2847	+8%
Juneau Reg/Local Positions	950	1059	+11%
Totals	3597	3906	+9%

	<u>1977</u>	<u>1982</u>
Central Positions in Juneau as % of Total State Positions	23%	20%

Number of Positions which would
reduce Juneau central positions
to 15% of all state positions in 1982 : +650