

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

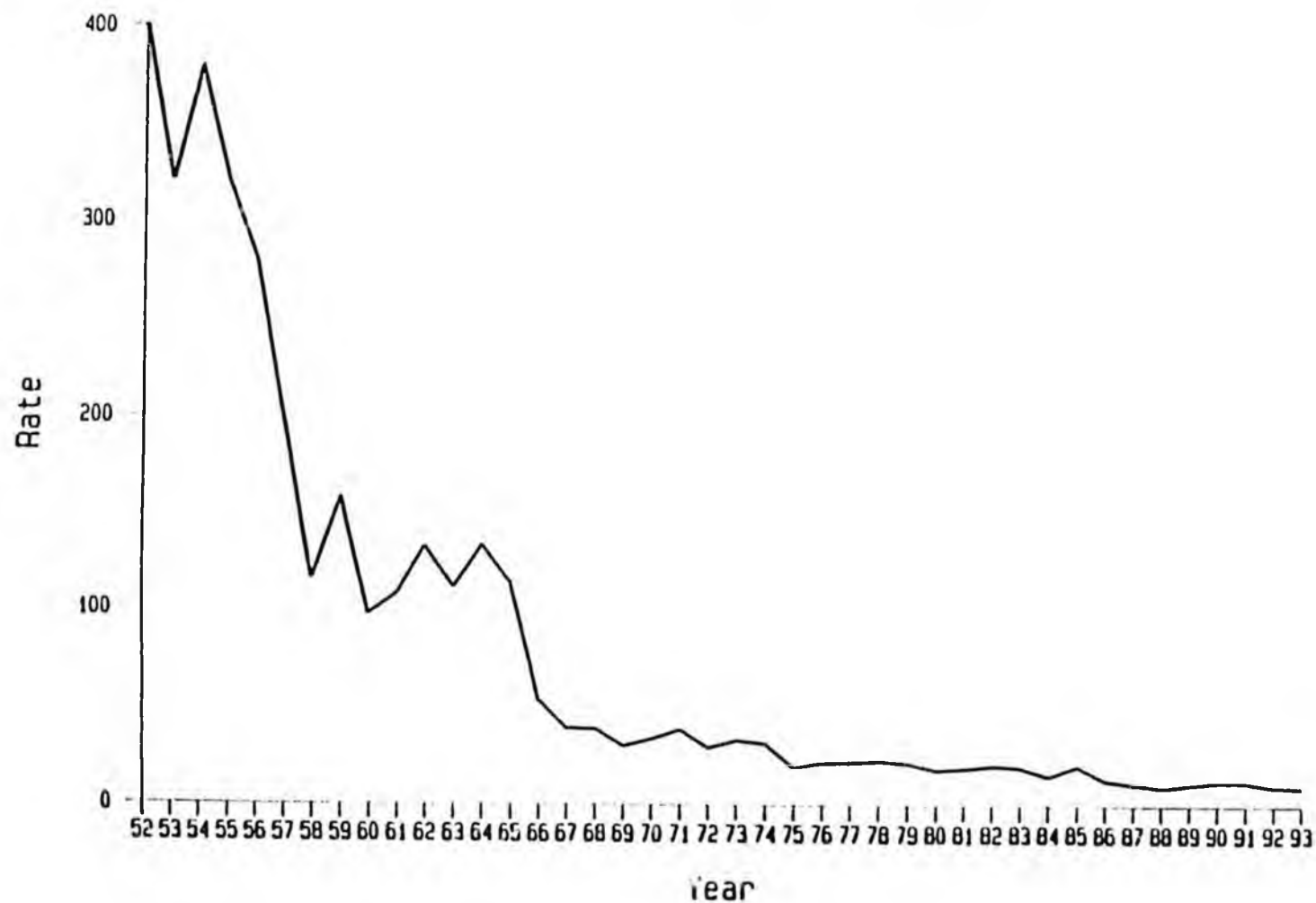
8535 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

TUBERCULOSIS CASES AND INCIDENCE RATES*, BY RACE, ALASKA, 1981-1993

YEAR	<u>WHITE</u>		<u>BLACK</u>		<u>AK NATIVE</u>		<u>ASIAN</u>	
	<u>No.</u>	<u>(Rate)</u>	<u>No.</u>	<u>(Rate)</u>	<u>No.</u>	<u>(Rate)</u>	<u>No.</u>	<u>(Rate)</u>
1981	15	(4.5)	1	(6.8)	56	(80.7)	11	(90.6)
1982	20	(5.6)	4	(25.5)	60	(81.6)	12	(93.3)
1983	23	(6.0)	1	(5.9)	62	(78.5)	12	(86.8)
1984	19	(4.7)	0	(0.0)	46	(55.1)	14	(95.9)
1985	22	(5.3)	1	(5.5)	68	(79.0)	19	(126.2)
1986	13	(3.1)	3	(16.1)	33	(42.9)	23	(150.5)
1987	10	(2.4)	3	(16.4)	34	(43.0)	14	(93.3)
1988	10	(2.4)	0	(0.0)	35	(43.1)	6	(40.5)
1989	2	(0.5)	0	(0.0)	50	(59.9)	7	(46.9)
1990	6	(1.4)	1	(5.3)	52	(60.7)	9	(58.6)
1991	.	(0.9)	2	(8.6)	56	(62.9)	8	(39.0)
1992	6	(1.4)	2	(8.3)	29	(31.7)	20	(94.7)
1993	5	(1.1)	0	(0.0)	40	(41.7)	12	(50.6)

*Rate per 100,000 population

Annual Tuberculosis Case Rates, Alaska, 1952-93
(Rate per 100,000 population)



Tuberculosis

Mission Statement

The goal of the Tuberculosis (TB) Control Program is the elimination of TB from Alaska. This can be accomplished through efforts targeted at preventing transmission of the causative organism of tuberculosis, identifying persons with TB infection and TB disease, and working to assure appropriate and complete treatment of persons for whom anti-tuberculous therapy is indicated.

Work Plan

Recent investigations of cases of tuberculosis have revealed severe deficiencies in the Division's ability to control tuberculosis. Several years of successive budget reductions, diminished priority given to training and field response, staff turnover, and loss of institutional knowledge of program procedures have combined to compromise the integrity of this critical program.

- Outbreaks in Savoonga, Gambell, St. Paul Island, and Nome exposed the inadequacy of our program. Investigation and implementation of treatment of all persons infected is the highest priority of the Section.
- Once acute epidemic investigations are completed, a major program to increase knowledge of, and commitment to, tuberculosis control will be essential.
- We will work aggressively to enhance PHN training and personnel, lab capacity including DNA-fingerprinting of isolates, and re-establishing knowledge of mechanisms and ability to implement quarantine of patients who do not take necessary medications.

Program staff will place particular emphasis on detection and epidemiologic investigation of clusters of TB cases. Such investigations, especially when they are conducted in remote villages, are time- and labor intensive, requiring extensive tuberculin skin-testing, collection of specimens for culture, and taking of chest x-rays using a portable machine.

Because TB cannot be diagnosed unless it is suspected, the Program Nurse Consultant will continue to make presentations to regional gatherings of Community Health Aides/Practitioners about TB, its clinical presentation, and the means by which it can be diagnosed. Program staff will continue to work to develop methods to assure compliance of patients--particularly those with active TB disease--with recommended anti-TB therapy.

- Conducting active and passive surveillance for new cases of TB disease; acting as the central point to which all cases of TB disease in Alaska residents are reported; and maintaining an up-to-date register of all TB cases currently under treatment;
- Annually analyzing characteristics of cases of TB disease in order to identify trends in TB morbidity in Alaska;
- Directing and/or conducting timely investigations of contacts of patients with infectious TB disease in order to identify and to offer appropriate treatment to other persons with TB infection or TB disease;
- Conducting investigations of TB outbreaks/clusters and recommending appropriate interventions and control measures;
- In conjunction with the Section of Public Health Nursing, monitoring medical compliance of patients receiving anti-TB chemotherapy in order to assure full and appropriate therapy, and administering a program through which "chemotherapy aides" provide directly-observed or closely-supervised anti-TB chemotherapy to selected patients;

- Ordering quarantine of patients who are non-compliant with medical therapy and who are believed to pose a threat to the health of the public;
- Providing consultation, information, and education about TB and its diagnosis and treatment to health-care providers (CHAs, PHNs, mid-level practitioners, physicians) throughout Alaska;
- Establish state-of-the-art clinical care for patients by supporting clinical services at the Anchorage Neighborhood Health Center.
- Monitoring compliance of preschools and schools with statutory requirements for periodic tuberculin skin-testing of school-children, and annually tabulating and analyzing reports of these skin-test results;
- Providing itinerant chest x-ray services, where indicated; and
- Providing tuberculin skin-testing materials and anti-TB medications free-of-charge.
- Maintain current program activities as a part of our initiative to implement "Strategies for the Eradication of TB in Alaska."
- Improve patient compliance with prescribed treatment.

4) Potential problems (see Attachment 2)

Current village outbreaks of tuberculosis are requiring large expenditures of unbudgeted resources that impact Nursing, Labs, and Epi. No IHS funds are being contributed at this time. Capacity to deal with tuberculosis has eroded to unacceptable levels. Compacting raises concerns about future IHS involvement in TB control. Proposed OSHA regulations could result in requirements for massive redesign of health facilities.

5) Actions

A high level meeting with IHS should focus on allocation of personnel and resources along with clear responsibilities for tuberculosis control activities including patient transport; x-rays; clinical diagnosis, treatment, and management; quarantine; and payment for epidemic field investigations.

We suggest that representatives from the A.G. meet with IHS attorneys to be briefed on legal ramifications for public health program issues under compacting.

An FY96 increment is needed to restore State capacity to control TB in Alaska.

6) Collaboration

Epi and Labs will collaborate on submitting a consolidated TB grant to CDC.

Epi and Nursing will collaborate to mobilize staff needed to control village outbreaks and to conduct appropriate training.

TUBERCULOSIS TRANSMISSION IN THE 1990s

Two studies reported in this issue of the *Journal*^{1,2} use new techniques of molecular epidemiology to extend our understanding of the transmission and control of an ancient disease — tuberculosis. The conventional wisdom has been that 90 percent of active cases arose from foci of infection first acquired years or decades ago. In the United States alone, the pool of persons with latent tuberculous infection is estimated at 10 to 15 million.³ But where do today's active cases come from? The reports in this issue suggest that at least in San Francisco and New York City, a third or more result from recent person-to-person transmission rather than from the reactivation of latent infection.

Small et al.¹ and Alland et al.² both use restriction-fragment-length polymorphism (RFLP) analysis to determine the genetic relatedness of organisms cultured from patients with active tuberculosis.^{4,5} RFLP analysis has been a powerful tool for confirming the results of standard epidemiologic investigations in hospitals,⁶ shelters for homeless persons,⁷ and prisons.⁸ Both studies applied RFLP analysis to large samples of cases and found remarkable genetic diversity among isolates of *Mycobacterium tuberculosis*, suggesting that most active tuberculosis continues to result from the reactivation of remote infection. But both groups also found substantial proportions of patients with organisms that had the same RFLP pattern ("DNA fingerprint"), and each group argues that these clusters of identical isolates indicate recent transmission.

Despite some differences in methods, the findings of the two studies are remarkably similar. In both, patients who were older or foreign-born were less likely to have clustered isolates, suggesting that in these patients disease is generally due to reactivation of infection rather than to recent transmission. Alternatively, foreign-born patients may have been recently infected by persons living abroad whose isolates were unavailable for DNA analysis. Both studies found that indigent patients were more likely to have identical isolates and that certain racial and ethnic groups had more clustering, although the particular groups were different in the two studies, suggesting that transmission is related to social and economic factors rather than to race itself. Alland et al. found that clustering was more common among patients with drug-resistant isolates, possibly because such patients remain infectious longer.

Most dramatically, in both studies nearly two thirds of the patients infected with the human immunodeficiency virus (HIV) or who had AIDS had clustered strains of *M. tuberculosis*. Thus, it appears that in most HIV-infected persons in the two urban areas, tuberculosis may be due to recent transmission rather than to the reactivation of remote infection.

There was also remarkable similarity in the propor-

tion of patients considered to have clustered isolates, although the two studies differed slightly in their manner of performing this calculation. Small et al. appropriately did not include the first (index) patient in a cluster among the patients who had recently transmitted infection, whereas Alland et al. did not consider isolates with only two identical RFLP bands to be definitive evidence of recent transmission. (The more bands, the lower the likelihood of a match by chance alone.) After adjustment for these differences, the studies both found that from one fourth to one third of patients had molecular evidence suggestive of recent transmission. This may substantially underestimate the true extent of clustering, because not all related patients were included. On the other hand, the proportion of cases due to recent transmission may be overestimated if clustering sometimes represents remote rather than recent spread.

Interestingly, the authors found similar ratios of clusters to cases (1:9 and 1:11), suggesting that approximately 1 in 10 patients with tuberculosis may be highly infectious and may account for most instances of transmission. One patient who was infectious for a prolonged period spread the disease widely and was responsible for 6 percent of all the cases in San Francisco.

These investigations raise many questions. Once infected with HIV, are patients more susceptible to infection with *M. tuberculosis*, as well as to progression to active disease? Are CD4 cell counts higher in HIV-infected patients with reactivated *M. tuberculosis* infection than in those with recently transmitted disease? Why was the proportion of patients with disease due to recent transmission so similar in the two cities, when at the time of the study the rate of completion of treatment was more than 95 percent in San Francisco but less than 40 percent in New York City (unpublished data)? Are long delays common in initiating treatment for tuberculosis? When they are, treatment can be 100 percent complete, but transmission can still be extensive. Finally, why are certain patients such effective disseminators of infection and disease?

These studies have important implications for tuberculosis control. A single patient can account for dozens of active cases, as well as hundreds of tuberculosis infections. Combined with increasing drug resistance⁹ and the well-documented inability of health care providers to predict compliance with therapy,¹⁰ this underscores the importance of expanding the use of directly observed therapy, in which a health worker watches as patients ingest their antituberculous medications. Recent reports^{11,12} demonstrate that the use of directly observed therapy can turn back the tide of drug-resistant tuberculosis. If a large percentage of new cases result from recent infection, then we must also improve contact investigation and follow-up.

That a substantial proportion of cases are due to recent transmission is an indictment of the current

health care system. But it is also a message of hope, because it implies that improved treatment could rapidly decrease the number of active cases. This appears to be occurring in New York City. The number of patients receiving directly observed therapy in New York increased from fewer than 100 in 1991 to more than 1200 in 1993, and the proportion completing treatment increased substantially; the number of new cases decreased by 15 percent in 1993. This decrease did not occur among the elderly and foreign-born (unpublished data), whose disease is mostly due to reactivation; this suggests that the decrease was attributable to an interruption in the ongoing transmission of disease as a result of improved treatment.

These studies also have important implications for the practicing physician. First, physicians should "think TB" when any patient has chronic cough and fever, regardless of the results of the tuberculin skin test, even if the radiographic findings are not typical of tuberculosis, and especially if the patient may be infected with HIV. Second, physicians should ensure prompt, effective, directly observed treatment for patients with tuberculosis. Third, they should work closely with the local health department to conduct sensitive and complete contact tracing, guided by an understanding of our increasingly complex social patterns. Fourth, physicians should ensure effective infection control in congregate settings, particularly hospitals, correctional facilities, and shelters. And fifth, they should target preventive treatment to persons at high risk, such as close contacts of patients with active tuberculosis, HIV-infected patients, and foreign-born persons from countries with a high prevalence of tuberculosis, in order to stop infection from progressing to active, infectious disease.¹

Finally, these studies have important implications for our society. Interrupting transmission may be much easier than preventing the cases that result from a reactivation of latent infection. Unless effective public health measures continue and expand, the aptly named "U-shaped curve of concern"¹³ will describe our efforts, and the recent encouraging downward trends will be replaced by rising numbers of cases. Before the studies in this issue of the *Journal* appeared,

we could comfortably believe that the vast majority of cases of clinical tuberculosis arose from infection acquired many years ago. We must now recognize that much of today's tuberculosis results from recent failures of treatment and public health measures. This should heighten our sense of accountability to our patients and to society. We know that poverty, overcrowding, and HIV infection accelerate the spread of this disease. It is our responsibility both to ensure appropriate treatment for our patients and to improve the troubled social conditions that allow tuberculosis to spread.

New York City
Department of Health
New York, NY 10013

MARGARET A. HAMBURG, M.D.

Centers for Disease Control
and Prevention
Atlanta, GA 30333

THOMAS R. FRIEDEN, M.D., M.P.H.

REFERENCES

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: EO 97
 (H) Publish Date: 1-8-96

Revision Date: _____ Dept. Affected: EDUCATION
 Title: Executive Order transferring functions of the BRU: Executive Administration
Alaska Commission on Postsecondary Education Component: Commissioner's Office
 Sponsor: Rules Committee
 Requester: Governor COMPONENT SERIAL NO. 185

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUNDING: (Thousands of Dollars)

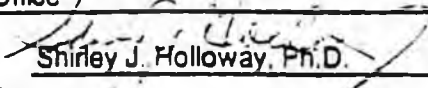
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other: 1007 I/A Receipts	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY96) cost: 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary) Sections 3, 4, 5 and 6 of the Executive Order list duties relating to postsecondary education in Alaska which are being transferred from ACPE to DOE. Those paragraphs which were enacted in compliance with federal mandates or which refer to coordination of the community college system and the University of Alaska budget are archaic due to federal and state statutory changes. The Department will support clean-up legislation to address these areas. The general policy and planning duties will be an expansion of the scope of the Board of Education's current activities, creating a linkage between secondary and postsecondary training. These functions, as they currently exist in statute are diverse and complex. DOE, with current and anticipated budgetary constraints, would not be able to afford the additional professional and administrative staff to perform these functions and still comply with our elementary and secondary education oversight responsibilities.

Prepared by: Kimberly Homme, Special Assistant
 Division: Commissioner's Office
 Approved by Commissioner:  Shirley J. Holloway, Ph.D.
 Agency: Department of Education

Phone: 465-2803
 Date: January 4, 1996
 Date: January 4, 1996

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: EO 97
 (H) Publish Date: 1-8-96

Revision Date: _____ Dept. Affected: EDUCATION
 Title: Executive Order transferring functions of the BRU: Executive Administration
Alaska Commission on Postsecondary Education Component: Administrative Services
 Sponsor: Rules Committee
 Requester: Governor COMPONENT SERIAL NO. 157

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGES IN REVENUES						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other: 1007 I/A Receipts	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY96) cost: \$ 45.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary) The Division of Administrative Services provided human resource, payroll, finance and budget support to the Alaska Commission on Postsecondary Education (ACPE) through a budgeted Reimbursable Services Agreement. The FY97 budget for Administrative Services has been adjusted for changes in the cost allocation plan based on the proposed transfer of the ACPE and consolidation of accounting functions. No additional funding is required.

Prepared by: Karen J. Rehfeld, Director Phone: 465-8650
 Division: Administrative Services Date: January 4, 1996
 Approved by Commissioner: Shirley J. Holloway, Ph.D. Date: January 4, 1996
 Agency: Department of Education

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STATE OF ALASKA
1996 LEGISLATIVE SESSION

Jill Version: EU 97
(H) Publish Date: 1-8-96

Revision Date: _____ Dept. Affected: EDUCATION
Title: Executive Order transferring functions of the BRU: AK Commission on Postsecondary Educ
Alaska Commission on Postsecondary Education Component: Program Administration
Sponsor: Rules Committee
Requester: Governor COMPONENT SERIAL NO. 212

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL	(20.0)					
CONTRACTUAL	(2.0)					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(22.0)	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other: 1022 Corporate Receipts	(22.0)	0.0	0.0	0.0	0.0	0.0
TOTAL	(22.0)	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY96) cost: (11.5)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The membership on the commission and corporation would be reduced from a total of 19 members to 7 members, and the subcommittees would be eliminated. The smaller membership and subsequent reduction in the number of meetings would.

- 1) eliminate costs for obtaining meeting space and allow for meetings to take place in the Anchorage student loan office conference room;
- 2) reduce travel costs;
- 3) reduce staff time and money preparing and mailing fewer meeting packets; and
- 4) reduce the number of meetings held each fiscal year (including subcommittees) from approximately 16 to 4.

This fiscal note is for information only. All FY97 budget impacts will be submitted as a Governor's budget amendment.

Prepared by: Gillian R. Hays, Legislative Liaison
Division: Alaska Commission on Postsecondary Education
Approved by Acting Executive Director: *Diane Barrans*
Agency: Alaska Commission on Postsecondary Education

Phone: 465-6718
Date: January 5, 1996
Date: January 5, 1996

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FISCAL NOTE

Version: EO 97
(H) Publish Date: 1-8-96

**STATE OF ALASKA
1996 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Revenue
 Title: EO: Postsecondary Education BRU: Administration & Support
 Component: Administrative Services Division
 Sponsor: Rules
 Requester: Governor COMPONENT SERIAL NO. 125

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 Interagency Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Division will be incurring additional administrative costs due to the transfer of the Alaska Student Aid Corporation from the Department of Education to the Department of Revenue. It is our intent to submit a budget amendment in the amount of \$40.0 in interagency receipts attributable to a Reimbursable Services Agreement (RSA) between the Alaska Student Aid Corporation and the Administrative Services Division. Services to be provided will be in the areas of personnel, payroll and budgeting.

Prepared by: Bob Baratko Phone: 465-2312
 Division: Administrative Services Division Date: 1/3/96
 Approved by: _____
 Commissioner: Deborah Vogt Date: 1/4/96
 Agency: Revenue

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FISCAL NOTE

Revision: _____
(H) Publish Date: 1-8-96

**STATE OF ALASKA
1996 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Revenue
 Title: EO: Postsecondary Education BRU: Alaska Student Aid Corporation
 Component: Alaska Student Aid Corporation
 Sponsor: Rules
 Requester: Governor **COMPONENT SERIAL NO.** _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 Interagency Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note acknowledges the transfer of the Alaska Student Aid Corporation from the Department of Education to the Department of Revenue due to an Executive Order. Funding within the Department of Revenue will be reflected in FY97 Governor's budget amendments.

Prepared by: Bob Baratko *[Signature]* Phone: 465-2312
 Division: Administrative Services Division Date: 1/5/96
 Approved by: _____
 Commissioner: Deborah Vogt *[Signature]* Date: 1/3/96
 Agency: Revenue

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 8, 1996

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an Executive Order relating to the transfer of functions of the Alaska Commission on Postsecondary Education.

This Executive Order is the first step in creating a new management structure to provide for the long-term stability of the Alaska student aid programs. This new structure should assure the financial community of Alaska's continued commitment to the financial viability of that program. Additionally, the transfer will streamline the student aid program and help integrate postsecondary education into the comprehensive statewide plan for education and training in the Department of Education.

The Executive Order accomplishes these goals in three ways.

First, the Executive Order eliminates the 14-member Alaska Commission on Postsecondary Education and transfers many of its functions to the Alaska Student Loan Corporation. That corporation is, in turn, renamed the Alaska Student Aid Corporation with an expanded board of seven members. This should reduce costs and result in a better integrated program.

Second, the Alaska Student Aid Corporation is transferred to the Department of Revenue. All management and administration functions of the Alaska Commission on Postsecondary Education for student aid funds are transferred to the corporation. These transfers should provide additional expertise and streamline the investment functions for the student loan funds.

The Honorable Gail Phillips

January 8, 1996

Page 2

Third, the policy and planning functions of the postsecondary commission are transferred to the Department of Education. The department can provide the central focal point for all education programs, including postsecondary, to be sure that Alaskans can be competitive in today's workplace.

I urge your support of this Executive Order. It will result in improved program operation while reducing administrative costs. These changes will help the vital student loan program become self-sufficient, so that low cost financial aid remains available to future generations of Alaskans pursuing postsecondary educational opportunities.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles". The signature is written in a cursive style with a large initial "T".

Tony Knowles
Governor

STATE OF ALASKA

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

MEMORANDUM

TONY KNOWLES, GOVERNOR

3030 VINTAGE BLVD.
JUNEAU, ALASKA 99801-7109
VOICE (800) 441-2962
In Juneau 465-6740
TDD (907) 465-3143
FAX (907) 465-3293

TO: Honorable Gail Toohey, Co-Chair
Honorable Con Bunde, Co-Chair
House HESS Committee
Honorable Lyda Green, Chair
Senate HESS Committee

FROM: Diane Barrans, Executive Director
Alaska Commission on Postsecondary Education

DATE: January 17, 1996

SUBJECT: Documents Pertinent to Executive Order #97

Attached for your information are three documents which may be helpful as a preface to the joint meeting of your committees to consider Executive Order #97.

Attachment A is a bullet sheet which summarizes the impact of the reorganization of functions by this Executive Order.

Attachment B is correspondence from Ken Vassar of Wohlforth, Argetsinger, Johnson & Brecht, Bond Counsel to the Alaska Student Loan Corporation. Mr. Vassar has reviewed the Executive Order to ensure that there would be no legal concerns which the Corporation would need to address. Mr. Vassar has been Bond Counsel to the Corporation since it was created and his general comments may be of interest to your members.

Attachment C is a memorandum from Teresa Williams, Department of Law, addressing some of the archaic federal laws which will be transferred from the Commission to the Department of Education.

Please let me know if any additional information is needed. My number is 465-6740.

Attachment A

Reorganization Resulting from Executive Order #97

- **Move Higher Education Policy and Planning Functions to DOE (Secs. 3 -6)**

The actual impact of this change will be that the Department of Education can broaden the scope of its policy and planning activity to include postsecondary issues. The impacts of these changes have the appearance of being quite broad because Section 3 of the EO references federal statutes which were repealed sometime after the Alaska laws were enacted. The necessary corrections may only be made through the legislative process.

- **Move Alaska Student Loan Corporation from Education to Revenue and Rename Alaska Student Aid Corporation; staff of Commission becomes staff of Corporation (Secs. 7 and 9)**

Impact is that the proximity to, and strengthened relationship with, Revenue will illustrate Alaska's commitment to strengthen and support these Programs. Will translate well to the Corporation's external customers (bond holders, rating agencies, bond insurers). Also clarifies that the Corporation Board (majority of public members), not the Commissioner of Revenue, will direct the operation of the agency "which has a legal existence independent of and separate from the state."

- **Expand Corporation Board Membership from 5 to 7 (Sec. 8)**

Impact is that both the finances and operations of the Program will be administered by a single board that will be structured to react quickly when necessary to program changes or market shifts. Also are inherent administrative efficiencies of have a 7 member board rather than two boards with a total of 17 members. Two cabinet level positions (Commissioners of Administration and Revenue) are taken from existing Corporation statutes and one Administration representative (Representative of the Department of Education) and four public members are taken from existing Commission statutes. Eliminates special-interest representation on Board. Also resolves constitutional issue of having legislative members on a regulation-setting board.

- **Move Financial Aid Program Administration and Institutional Authorization functions Within the Authority of the Corporation (Secs. 10 - 76)**

Agency staff will continue to function so that no negative impact of the EO is experienced by the external customers of the Corporation.

- **Technical Changes Necessitated by Phase-out of Commission and/or Transfer of some functions from Commission to Corporation (Secs. 77 - 84)**

Clean-up necessary for Corporation to be fully operational on effective date of EO.

Attachment B

WOHLFORTH, ARGETSINGER, JOHNSON & BRECHT

PETER ARGETSINGER
JULIUS J. BRECHT
CYNTHIA L. CARTLEDGE
CAROL L. GILES
ROBERT M. JOHNSON
THOMAS F. KLINKNER
BRADLEY E. MEYER
HENKETH E. VASSAR
ERIC E. WOHLFORTH

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
900 WEST 5TH AVENUE, SUITE 600
ANCHORAGE, ALASKA 99501-2048

TELEPHONE
(907) 276-0401
TELECOPY
(907) 276-5093

January 10, 1996

REC'D ACPE

JAN 12 1996

Diane Barrans
Executive Director
Alaska Student Loan Corporation
3030 Vintage Boulevard
Juneau, Alaska 99801-7109

RE: Executive Order No. 97
Our File No. 4908 0213

Dear Ms. Barrans:

At your request, I have reviewed Executive Order No. 97 relating to the Commission on Postsecondary Education and the Alaska Student Loan Corporation. Under the Executive Order, the current powers and duties of the Commission would be transferred primarily to the Corporation, with certain of those powers and duties being transferred to the Department of Education. The Corporation would be renamed the Alaska Student Aid Corporation and would be transferred from the Department of Education to the Department of Revenue for administrative purposes. The Commission would be abolished. There would be some additional amendments to the Corporation's statutes, including a modification of the membership of its board of directors.

I have reviewed the Executive Order particularly to determine whether it violates any agreements with holders of the Corporation's outstanding bonds or with the insurer of those bonds. In my review I have found nothing in the Corporation's Indenture, any of the Corporation's Supplemental Indentures, or any other documents relating to the issuance of the Corporation's bonds that would prevent the implementation of the Executive Order or that would be violated by the implementation of the Executive Order.

In addition, I believe that the changes suggested by the Executive Order will be beneficial to the Corporation's efforts to finance the student loan program through the sale of its bonds and beneficial to the student loan program generally. The existence of two, separate state agencies with identical staff and possessing powers and duties relating to the same program (i.e., the student loan program) is confusing. Even the members of the Commission and the members of the

Diane Barrans
January 10 1996
Page 2

Corporation have been confused as to the boundaries of their respective powers and duties. Our firm on more than one occasion has provided "seminars" to each entity for the purpose of helping to define their roles. With such confusion within the agencies themselves, confusion among bond investors and insurers is almost certain, and explanations of the relationship between the Commission and the Corporation is a part of each year's bond issuance procedure. Consolidating the functions of the two entities into the Corporation will eliminate the confusion and ease the sales efforts for the Corporation's bonds.

The consolidation will also eliminate the inefficiencies of having two entities that must transact the same business with one another. Under the existing arrangement, the Commission makes the loans and the Corporation finances them with bond proceeds. The bonds are secured by the loans and the revenues derived from the loans, which means that the Commission must take steps to perfect a pledge of the loans as security for the bonds. Then, pursuant to a separate agreement between the Corporation and the Commission, the Commission must service the loans and see to it that revenues are transferred in a timely manner to the funds created by the Corporation for the benefit of the bonds. In the meantime, the Commission's regulations relating to the award, terms, and servicing of loans affect the size, timing of issuance, and security for the Corporation's bonds. It would improve the efficiency of the entire process to have the same entity responsible for these interwoven procedures, as the Executive Order would provide.

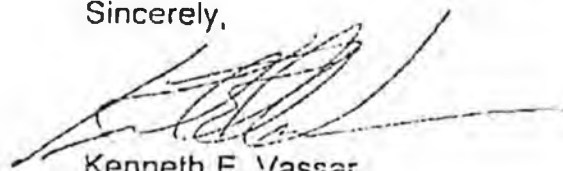
The two entities were created, to the best of my knowledge, only because the reason for the Corporation's existence arose long after the Commission had already been in existence. When the ability to finance student loans of the type made by the Alaska program became part of the tax code in 1986, the Legislature responded by passing legislation to create the Corporation so that tax-exempt bond financing of the Alaska program could be used to replace direct appropriations. At that time, it made sense to create the Corporation as a financing entity but to leave the Commission in place to continue performing the duties it had performed for many years before the Corporation was created. However, as the years have passed and it has become clear that the Corporation is likely to continue to provide financing for the program and can also perform the duties of the Commission, the continuing need for the Commission is not as apparent.

As mentioned above, I believe the changes proposed by the Executive Order will not violate any provisions of outstanding bond documents of the Corporation and, moreover, I believe the changes are beneficial to the operation

Diane Barrans
January 10, 1996
Page 3

of the student loan program and financing efforts for the program. I am, of course, happy to respond to any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Vassar", with a long horizontal flourish extending to the right.

Kenneth E. Vassar

cc: Teresa Williams
Section Chief
Fair Business Practices
Attorney General's Office

Attachment C

MEMORANDUM

State of Alaska

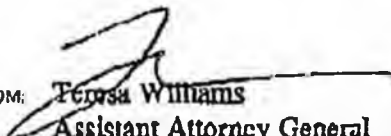
Department of Law

TO: Diane Barrans
Executive Director
Ak Postsecondary Edu., Comm'n

DATE: January 17, 1996

FILE NO.: 221-96-0022

TEL NO.: 269-5200

FROM: 
Teresa Williams
Assistant Attorney General
Fair Business Practices Section
Anchorage

SUBJECT: EO 97 - Postsecondary
Education Commission

In drafting the executive order transferring functions of the Alaska Commission on Postsecondary Education, all statutory functions must be transferred to another state entity -- whether or not those functions continue to be viable. In the attached memo, I noted that some mandates under AS 14.42.030(b) refer to federal laws that are no longer in effect. Additionally, you have advised me that no "consortium" exists as referenced in AS 14.42.030 and 14.42.055. Nevertheless, these functions had to be transferred, so they are transferred to the Department of Education along with the planning and advisory functions also transferred.

The resulting division of all of the commission's statutory functions between the Alaska Student Aid Corporation and the Department of Education is as follows:

STUDENT AID CORP.	DEP'T OF EDUC.
<i>Existing -- student loan financing, servicing, information dissemination, fund management, and related functions under current law: AS 14.42.100 - 14.42.390</i>	Resolve consortium disputes: AS 14.07.020(a)(16) and 14.07.032 Advisory function regarding consortia: AS 14.07.020(c)(4)
Student loan program administration consolidated in corporation: AS 14.42.195(a) and (b) (including repealed federal mandates)	Serve as state agency required under (repealed) federal mandates: AS 14.07.020(a)(17)-(19)
Appointment of executive officer, authorization of staff positions, establish salaries: AS 14.42.160	Advisory and planning function regarding postsecondary education: AS 14.07.020(c)(1)
Regulate postsecondary education institutions: AS 14.42.195(a)(3)	Advisory function regarding colleges and universities: AS 14.07.020(c)(2)
Administer WAMI Medical Exchange Program: AS 14.42.195(b)	Advisory function re: college and university budget requests: AS 14.07.020(c)(3)
Administer WICHE program: AS 14.44.035	Power to establish task forces, make studies, and collect data to carry out functions listed above: AS 14.07.030(14) and 14.07.033

Diane Barrans
January 17, 1996

Page 2

To assist in reviewing the disposition of provisions that establish the Alaska Commission on Postsecondary Education and its functions, I've prepared the following:

EXISTING STATUTE	PLACEMENT BY EO	SEC.
AS 14.42.010	remains	
AS 14.42.015 - 14.42.025, 14.42.045	deleted	
14.42.030(a)	14.07.020(c)	4
14.42.030(b)(1), (2), and (6)	14.07.020(a)(16) - (18)	3
14.42.030(b)(3)	divided between 14.07.020(a)(19) and 14.42.195(a)(2)	311
14.42.030(b)(4) and (5)	14.42.195(a)(1) and (3)	11
14.42.030(c)	14.07.030(14)	5
14.42.030(d)	14.42.195(b)	11
14.42.032	14.42.215	14
14.42.035	14.07.033	6
14.42.040	14.42.160	9
14.42.050	14.42.180	10
14.42.055	14.42.032	6

REMAINING EXECUTIVE ORDER SECTIONS

Sec. 7 -- rename the corporation and move to the Department of Revenue

Sec. 8 -- expand membership of corporation board

Sec. 47 -- move regulation of the WICHE program to corporation

Sec. 76 -- move regulation of postsecondary educational institutions to corporation

Secs. 2, 12-13, 15-46, 48-75, and 77-84 -- necessary conforming changes to AS 08.02.025(a), AS 14.42.170, 14.42.200(18), 14.42.210(a) and (b), 14.42.390, AS 14.43.090 - 14.43.115, 14.43.120(b), (c), (f), (g), (i), (m), (r) and (t) - (v), 14.43.122(a), 14.43.125(a), 14.43.150(a), 14.43.160(1), 14.43.255(a) and (c), 14.43.300(g), 14.43.320(a), 14.43.415, 14.43.620, 14.43.630(a), 14.43.650(a), 14.43.720(a) and (b), 14.43.730, 14.43.740(d), 14.43.990, AS 14.48.010(a), 14.48.020, 14.48.030(b), 14.48.040 - 14.48.060, 14.48.070(a) - (c), (f), and (g), 14.48.080(a), (c), (d), and (f), 14.48.090(a), 14.48.100 - 14.48.150, 14.48.180 - 14.48.200, 14.48.210(2) - (4), AS 39.25.110(11), AS 39.50.200(32), and AS 43.23.067.

JAN-17-96 WED 14:46

AK. COMM 2nd ED.

P. 15

JAN-17-96 WED 14:24

FBPS

FAX NO. 2697898

P. 04/04

Diane Barrans
January 17, 1996

Page 3

Sec. 85 -- Transition section

Sec. 86 -- March 9, 1996 effective date.

I will be available on conference from the Legislative Information Office in Anchorage during the joint House and Senate Health, Education, and Social Services committees' hearing on January 18, 1996 to answer any questions.

MEMORANDUM

State of Alaska

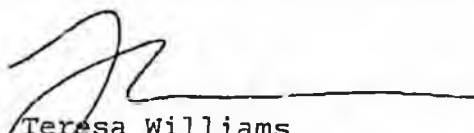
Department of Law

TO: Deborah Behr
Assistant Attorney General
Attorney General's Office

DATE: November 17, 1995

FILE NO.:

TEL. NO.: 269-5200

FROM: 
Teresa Williams
Assistant Attorney General
Fair Business Practices Section
Anchorage

SUBJECT: Federal law changes
affecting AS 14.42

AS 14.42.030(b) refers to a number of functions formerly mandated by federal law. Those laws are no longer in effect:

- (1) 20 U.S.C. §1142(a) and (b) codified sec. 1202 of Title XII
repealed by sec. 1201 of P.L. 96-374
 - (2) prior 20 U.S.C. §1135 codified sec. 1001 of Title X
repealed by sec. 100(a) of P.L. 96-374
 - (3) 20 U.S.C. §1005 (1986)
replaced by P.L. 96-347 and sec. 101 of P.L. 99-48
- 20 U.S.C. §1123 (1986)
replaced by P.L. 96-374
- 20 U.S.C. §1142 (a) and (b) codified sec. 1202 of Title XII
repealed by sec. 1201 of P.L. 96-374

I recommend that these provisions be deleted in a revisor's bill.

TW:jjc

cc: Diane Barrans
Gina Atkinson

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(807) 485-3867 or 485-2450
FAX (807) 485-2029
Mail Stop 3101

120 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

November 21, 1995

SUBJECT: Federal Law changes affecting AS 14.42

TO: Deborah Behr
Assistant Attorney General

FROM: Pamela Finley *Pam*
Revisor of Statutes

Thank you for sending me a copy of Teresa Williams' memo to you concerning federal law changes affecting AS 14.42. I will not attempt to amend AS 14.42.030(b) in the revisor's bill because I don't know whether the legislature would want to delete the references to the federal law or delete the requirements (which appear to arise from requirements of repealed federal law) in their entirety. However, I appreciate your bringing this to my attention. Assuming that a bill deleting the archaic references does not pass this session, I will add a note indicating that those federal laws have been repealed.

PF:glc
95-449.glc

Post-It [®] Fax Note	7671	Date	11/23/95	# of pages	1
To	DEBORAH BEHR	From	TERESA WILLIAMS		
Co/Dept.	AK LEGISLATIVE	Co.	AKSO		
Phone #		Phone #	907.586.5200		
Fax #		Fax #			

RECEIVED

NOV 24 1995

Attorney General's Office
Juneau

Sec. 4 ch 78 SLA 1974)
REVISOR'S NOTES

Formerly AS 14.40.907. Renumbered in 1982.

Sec. 14.42.030 Functions Of The Commission

(a) The commission has the following functions, advisory to the governing boards of institutions of public and private higher education in Alaska, to the governor, the legislature, and to other appropriate state and federal officials:

(1) coordinate the development of comprehensive plans for the orderly, systematic growth of public and private postsecondary education, including community colleges and occupational education, in the state and submit recommendations on the need for, and location of, new facilities and programs;

(2) advise as to the functions and purposes of the colleges and universities, both public and private, in the state and counsel as to the programs appropriate to each;

(3) review the annual budgets and capital outlay requests of the University of Alaska and of each of the private colleges and universities in the state, and present comments on the general level of support sought;

(4) review and advise as to the working of all consortia and other cooperative agreements between the institutions of higher education in the state that are parties to them;

(5) (Repealed, Sec. 35 ch 126 SLA 1994.)

(b) The commission shall

(1) develop a comprehensive statewide plan for coordinated postsecondary education in the state and serve as the state commission on postsecondary education required under sec. 1202 of Title XII of the Higher Education Act of 1965, as amended by the Education Amendments of 1972 (P.L. 92-318, sec. 196; 86 Stat. 324);

(2) establish a state advisory council on community colleges and develop a comprehensive statewide plan for the expansion and improvement of the community colleges under sec. 1001 of Title X of the Higher Education Act of 1965, as amended by the Education Amendments of 1972 (P.L. 92-318, sec. 186; 86 Stat. 312, 313);

(3) serve as the state agency required under sec. 105 of Title I (Community Service and Continuing Education), 603 of Title VI (Financial Assistance for Undergraduate Education), 704 of Title VII (Construction of Academic Facilities), and Part B of Title IV (Guaranteed Student Loan Program) of the Higher Education Act of 1965 (P.L. 89-329; 79 Stat. 1220, 1262; 20 U.S.C. 1005, 1123) as authorized by sec. 1202(c) of Title XII of the Higher Education Act of 1965, as amended by the Education Amendments of 1972 (P.L. 92-318, sec. 196; 86 Stat. 324);

(4) administer the provisions of AS 14.43.090 - 14.43.160 (student loan program);

(5) administer the provisions of AS 14.48 (regulation of postsecondary educational institutions);

(6) resolve any disputes that exist or arise under a consortium or other cooperative agreement between institutions of public and private higher education in the state.

(c) The commission may establish task forces, committees or subcommittees, not necessarily consisting of commission members, to advise and assist the commission in carrying out its functions assigned by state or federal statute. The commission may contract with, or use, existing institutions of higher education or other individuals or organizations to make studies, conduct surveys, submit recommendations or otherwise contribute to the work of the commission. The commission may appoint a committee to be responsible for the area of student financial aid.

(d) The commission may enter into agreements with government or postsecondary education officials of this state or other states to provide postsecondary educational services and programs as state officials...

CHARLIE PARR
909 John Kalinas Road
Fairbanks, AK 99712
(907) 488-2555

January 17, 1996

FAX to Rep. Con Bundy 465-3871

Thank you for notifying me of the hearing on Executive Order 97. I hadn't heard about it. Unfortunately I'm going into the hospital for surgery that morning and can't take part.

I did get and read the order. It seems to remove functions the Commission has never performed (to my knowledge), and reduces the new governing board to a more realistic size. The HESS and Finance Committee hearings may turn up matters my quick study didn't .

Best wishes.

Sincerely,

Charles H. Parr
Commissioner

HB

15

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/7/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 15

HOUSE BILL NO. 15

PUBLIC DISCLOSURE OF MINORS COURT RECORDS

"An Act authorizing disclosure from court records of the name, address, and picture of, and other information about, certain minors for whom a delinquency petition is filed."

recommends it be replaced the same title
with the following committee substitute _____ a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) H+SS

fiscal note(s) _____

zero fiscal note(s) Law

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	R	AM
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>		<input checked="" type="checkbox"/>		
<i>[Signature]</i>			<input checked="" type="checkbox"/>	

CHAIR'S SIGNATURE

[Signature]

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB15

Revision Date: _____
 Title: Authorizing disclosure from court records of the Name,
Address & Picture of, and other information about certain minors
 Sponsor: Therriault
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Southeastern Region
 COMPONENT SERIAL NO. 258
 See also (SN#): 1962,252,253,254,255,259,1628

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0					
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(283.0)	(283.0)	(283.0)	(283.0)	(283.0)	(283.0)
1003 GF Match	(326.3)	(326.3)	(326.3)	(326.3)	(326.3)	(326.3)
1004 GF	609.3	609.3	609.3	609.3	609.3	609.3
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.090 making some juvenile records public in Sec. 10 will place the state out of compliance with federal regulations concerning Title IV-B and Title IVE of the Social Security Act [42 U.S.C.671 (a)(8)]. The state would lose \$283.0 in Federal receipts in reimbursement for payments made for administrative costs in Southeastern Region, and another \$5,803.7 for residential care, foster care, family preservation, and subsidized adoptions as well as administrative costs for the other components in Family & Youth Services BRU. The total loss would be \$6,086.7. In addition to the \$5,502.2 previously required in general fund match, another \$6,086.7 would still be required from the general fund.

Prepared by: Kathy Tibbles, Acting Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 02/06/95
 Date: 2/7/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB15

Revision Date: _____
 Title: Authorizing disclosure from court records of the Name,
 Address & Picture of, and other information about certain minors
 Sponsor: Therriault
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Southcentral Region
 COMPONENT SERIAL NO. 254
 See also (SN#): 1962,252,253,255,258,259,1628

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0					
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(1,135.1)	(1,135.1)	(1,135.1)	(1,135.1)	(1,135.1)	(1,135.1)
1003 GF Match	(1,118.9)	(1,118.9)	(1,118.9)	(1,118.9)	(1,118.9)	(1,118.9)
1004 GF	2,254.0	2,254.0	2,254.0	2,254.0	2,254.0	2,254.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.090 making some juvenile records public in Sec. 10 will place the state out of compliance with federal regulations concerning Title IV-B and Title IVE of the Social Security Act [42 U.S.C.671 (a)(8)]. The state would lose \$1,135.1 in Federal receipts in reimbursement for payments made for administrative costs in Southcentral Region, and another \$4,951.6 for residential care, foster care, family preservation, and subsidized adoptions as well as administrative costs for the other components in Family & Youth Services BRU. The total loss would be \$6,086.7. In addition to the \$5,502.2 previously required in general fund match, another \$6,086.7 would still be required from the general fund.

Prepared by: Kathy Tibbles, Acting Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 02/06/95
 Date: 2/7/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB15

Revision Date: _____
 Title: Authorizing disclosure from court records of the Name,
Address & Picture of, and other information about certain minors
 Sponsor: Therriault
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Northern Region
 COMPONENT SERIAL NO. 255
 See also (SN#): 1962,252,253,254,258,259,1628

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0					
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(499.2)	(499.2)	(499.2)	(499.2)	(499.2)	(499.2)
1003 GF Match	(618.5)	(618.5)	(618.5)	(618.5)	(618.5)	(618.5)
1004 GF	1,117.7	1,117.7	1,117.7	1,117.7	1,117.7	1,117.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.090 making some juvenile records public in Sec. 10 will place the state out of compliance with federal regulations concerning Title IV-B and Title IVE of the Social Security Act [42 U.S.C.671 (a)(8)]. The state would lose \$499.2 in Federal receipts in reimbursement for payments made for administrative costs to Northern Region and another \$5,587.5 for residential care, foster care, family preservation, and subsidized adoptions as well as administrative costs for the other components in Family & Youth Services BRU. The total loss would be \$6,086.7. In addition to the \$5,502.2 previously required in general fund match, another \$6,086.7 would still be required from the general fund.

Prepared by: Kathy Tibbles, Acting Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 02/06/95

Date: 2/7/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB15

Revision Date: _____
 Title: Authorizing disclosure from court records of the Name,
Address & Picture of, and other information about certain minors
 Sponsor: Therriault
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: DFYS Central Office
 COMPONENT SERIAL NO. 259
 See also (SN#): 1962.252.253.254.255.258. 1628

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0					
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(1,188.4)	(1,188.4)	(1,188.4)	(1,188.4)	(1,188.4)	(1,188.4)
1003 GF Match	(941.5)	(941.5)	(941.5)	(941.5)	(941.5)	(941.5)
1004 GF	2,129.9	2,129.9	2,129.9	2,129.9	2,129.9	2,129.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.090 making some juvenile records public in Sec. 10 will place the state out of compliance with federal regulations concerning Title IV-B and Title IV-E of the Social Security Act [42 U.S.C.671 (a)(8)]. The state would lose \$1,188.4 in Federal receipts in reimbursement for payments made for administrative costs in Central Office, and another \$4,898.3 for residential care, foster care, family preservation, and subsidized adoptions as well as administrative costs for the other components in Family & Youth Services BRU. The total loss would be \$6,086.7. In addition to the \$5,502.2 previously required in general fund match, another \$6,086.7 would still be required from the general fund.



Prepared by: Kathy Tibbles, Acting Director
 Division: Family & Youth Services

Phone: 465-3191
 Date: 02/06/95

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: 2/7/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB15

Revision Date: _____
 Title: Authorizing disclosure from court records of the Name,
Address & Picture of, and other information about certain minors
 Sponsor: Therriault
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Purchased Services
 Component: Family Preservation
 COMPONENT SERIAL NO. 1628
 See also (SN#): 1962.252,253,254,255,258, 259

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0					
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

	FY96	FY97	FY98	FY99	FY00	FY01
1002 Federal Receipts	(224.0)	(224.0)	(224.0)	(224.0)	(224.0)	(224.0)
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	224.0	224.0	224.0	224.0	224.0	224.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

	FY96	FY97	FY98	FY99	FY00	FY01
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.090 making some juvenile records public in Sec. 10 will place the state out of compliance with federal regulations concerning Title IV-B and Title IV-E of the Social Security Act [42 U.S.C.671 (a)(8)]. The state would lose \$224 in Federal receipts in reimbursement for payments made for family preservation grants, and another \$5,829.7 for residential care, foster care, and subsidized adoptions as well as administrative costs for the other components in Family & Youth Services BRU. The total loss would be \$6,086.7. In addition to the \$5,502.2 previously required in general fund match, another \$6,086.7 would still be required from the general fund.

Prepared by: Kathy Tibbles, Acting Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 02/06/95
 Date: 2/7/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB15

Revision Date: _____
 Title: Authorizing disclosure from court records of the Name,
Address & Picture of, and other information about certain minors
 Sponsor: Therriault
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Purchased Services
 Component: Residential Child Care
 COMPONENT SERIAL NO: 253
 See also (SN#): 1962,252,254,255,258,259, 1628

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0					
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(568.0)	(568.0)	(568.0)	(568.0)	(568.0)	(568.0)
1003 GF Match	(564.4)	(564.4)	(564.4)	(564.4)	(564.4)	(564.4)
1004 GF	1,132.4	1,132.4	1,132.4	1,132.4	1,132.4	1,132.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.090 making some juvenile records public in Sec. 10 will place the state out of compliance with federal regulations concerning Title IV-B and Title IVE of the Social Security Act [42 U.S.C.671 (a)(8)]. The state would lose \$568.0 in Federal receipts in reimbursement for payments made for residential care and another \$5,518.7 for foster care, family preservation, and subsidized adoptions as well as administrative costs. The total loss would be \$6,086.7 In addition to the \$5,502.2 previously required in general fund match, another \$6,086.7 would still be required from the general fund.

Prepared by: Kathy Tibbles, Acting Director
 Division: Family & Youth Services
 Approved by Commissioner: Kern Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 02/06/95
 Date: 2/7/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB15

Revision Date: _____
 Title: Authorizing disclosure from court records of the Name,
Address & Picture of, and other information about certain minors
 Sponsor: Tberrault
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Purchased Services
 Component: Sub Adoption & Guardianship
 COMPONENT SERIAL NO. 1962
 See also (SN#): 252,253,254,255,258,259,1628

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0					
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(1,018.6)	(1,018.6)	(1,018.6)	(1,018.6)	(1,018.6)	(1,018.6)
1003 GF Match	(1,018.6)	(1,018.6)	(1,018.6)	(1,018.6)	(1,018.6)	(1,018.6)
1004 GF	2,037.2	2,037.2	2,037.2	2,037.2	2,037.2	2,037.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.090 making some juvenile records public in Sec. 10 will place the state out of compliance with federal regulations concerning Title IV-B and Title IVE of the Social Security Act [42 U.S.C.671 (a)(8)]. The state would lose \$1,018.6 in Federal receipts in reimbursement for payments made for subsidized adoptions and another \$5,068.1 for residential care, family preservation, and foster care as well as administrative costs. The total loss would be \$6,086.7. In addition to the \$5,502.2 previously required in general fund match, another \$6,086.7 would still be required from the general fund.

Prepared by: Kathy Tibbles, Acting Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 02/06/95
 Date: 2/7/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB15

Revision Date: _____
 Title: Authorizing disclosure from court records of the Name,
Address & Picture of, and other information about certain minors
 Sponsor: Therriault
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Purchased Services
 Component: Foster Care
 COMPONENT SERIAL NO. 252
 See also (SN#): 1962.253.254.255.258.259.1628

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0					
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(1,170.4)	(1,170.4)	(1,170.4)	(1,170.4)	(1,170.4)	(1,170.4)
1003 GF Match	(914.0)	(914.0)	(914.0)	(914.0)	(914.0)	(914.0)
1004 GF	2,084.4	2,084.4	2,084.4	2,084.4	2,084.4	2,084.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Revising 47.10.090 making some juvenile records public in Sec. 10 will place the state out of compliance with federal regulations concerning Title IV-B and Title IV-E of the Social Security Act [42 U.S.C.671 (a)(8)]. The state would lose \$1,170.4 in Federal receipts in reimbursement for payments made for foster care and another \$4,916.3 for residential care, family preservation, and subsidized adoptions as well as administrative costs. The total loss would be \$6,086.7. In addition to the \$5,502.2 previously required in general fund match, another \$6,086.7 would still be required from the general fund.



Prepared by: Kathy Tibbles, Acting Director
 Division: Family & Youth Services

Phone: 465-3191
 Date: 02/06/95

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: 2/7/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 15

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...authorizing disclosure from court records of the BRU: Legal Services
name, address, and picture of...certain minors..." Component: Operations
 Sponsor: Representative Therriault
 Requester: Representative Therriault COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill provides that the name and address and picture of a minor, if available, and the criminal law the minor is accused of violating shall be made public if a delinquency petition is filed under AS 47.10.020(a)(2) for the minor, and the minor has been previously adjudicated a delinquent, and both the previous adjudication of delinquency and the current delinquency petition are the result of offenses that, if committed by an adult, would be felonies. Current law provides that this information be kept confidential. The bill will not have a fiscal impact for the Department of Law.

Richard I. Pegues
 Prepared by: Richard I. Pegues, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 1/27/95
 Date: 1/27/95

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Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT

Mailing Address
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0862
Fax (907) 488-4271



While in Session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax (907) 465-3884
House District 33

House Of Representatives

HB 15: "An Act authorizing disclosure from court records of the name, address, and picture of, and other information about, certain minors for whom a delinquency petition is filed."

Sponsor: Representative Gene Therriault

Sponsor Statement:

This legislation is intended as an intermediate step in the juvenile justice system that goes beyond the degree of punishment currently possible, but stops short of prosecution as an adult. It would allow the State, under certain strict circumstances, to release the names of juvenile offenders.

With varying degrees of exceptions, most states require a court order to release the names of juvenile offenders. Recently, however, the trend has been toward cracking that confidentiality. In 1993, according to the National Conference of State Legislatures, Kansas approved a law that allows officials to publicize the names of juveniles over the age of 13 who are convicted of certain violent crimes. In 1990, Rhode Island opened the records of juveniles who are over 15. In May 1994, Illinois legislators overwhelmingly approved a measure to make public the names of juveniles convicted of crimes involving guns, gangs or felony drug violations.

In Alaska, prior to 1994, the law contained a little-used provision that allowed publication of the name of a minor who committed two offenses classified as felonies. Last year, Senate Bill 54 replaced that provision with one that prohibits disclosure of the name or picture of a minor under the jurisdiction of the court in connection with the minor's status as a delinquent child unless authorized by order of the court. House Bill 15 would again allow the State to disclose the name, address and picture of a minor following a second felony offense unless the court entered an order barring disclosure "for good cause shown in individual cases."

The current shield of anonymity and lack of serious penalties foster the perception among many young adults entering the justice system that they can get away with anything. This reinforces criminal behavior that continues into adulthood, where the consequences are far more serious.

SPONSOR STATEMENT

HB 15 Sponsor Statement
Page 2

Tight confidentiality laws have been near the center of America's juvenile justice philosophy for decades. However, society has changed since juvenile justice systems were created around the turn of the century, and it is time for law enforcement to change as well. This small step toward lifting the privileged status of a juvenile, when that juvenile has wittingly and repeatedly broken the law, is a reasonable step in that direction.

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 19, 1995

SUBJECT: House Bill 15: sectional analysis (Work Order No. 9-LS0077\A)

TO: Representative Gene Therriault
ATTN: Wilda Whittaker

FROM: Jack Chenoweth
Legislative Counsel 

The bill proposes to lift the privileged status given by law to the names and pictures of minors under court jurisdiction when a petition seeking the minor's adjudication as a delinquent is before the court. It would substitute the requirement that, unless the court entered an order barring disclosure "for good cause shown in individual cases," the minor's name and address, a picture of the minor, and a description of the nature of the offense underlying the delinquency adjudication petition would be public information if

- (1) a petition seeking a delinquency adjudication is filed;
- (2) the minor was previously adjudicated a delinquent; and
- (3) both the previous delinquency adjudication and the current delinquency adjudication petition are based on offenses that are classified as felonies.

JBC:lmb
95-073.lmb

Chapter 113

orders the minor placed on probation, it may specify the terms and conditions of probation; the department may transfer the minor, in the minor's best interests, from one of the probationary placement settings listed in this paragraph to another, and the minor, the minor's parents or guardian, and the minor's attorney are entitled to reasonable notice of the transfer; the probation may be for a period of time, not to exceed two years and in no event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of commitment that do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it;

(4) order the minor to make suitable restitution in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection; ~~the court may not refuse to make an order of restitution under this paragraph to benefit the victim of the act of the minor that is the basis of the delinquency adjudication;~~

(5) order the minor committed to the department for placement in an adventure based education program established under AS 47.21.020 with conditions the court considers appropriate concerning release upon satisfactory completion of the program or commitment under (1) of this subsection if the program is not satisfactorily completed; or

(6) in addition to an order under (1) - (5) of this subsection, if the delinquency finding is based on the minor's violation of AS 11.71.000(a)(3) or 11.71.040(a)(4), order the minor to perform 50 hours of community service; for purposes of this paragraph, "community service" includes work

(A) on a project identified in AS 11.40.901; or

(B) that, on the recommendation of the city council or traditional village council, would benefit persons within the city or village who are elderly or disabled.

* Sec. 12. AS 47.10.090 is repealed and reenacted to read:

Chapter 113

Sec. 47.10.090 COURT RECORDS (a) The court shall make and keep records of all cases brought before it

(b) The court shall forward a record of adjudication of a violation of an offense listed in AS 28.15.185(a) to the Department of Public Safety if the court imposes a license revocation under AS 28.15.185

(c) Within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court releases jurisdiction over the minor, the court shall order all the court's official records pertaining to that minor sealed, as well as records of all driver's license proceedings under AS 28.15.185, criminal proceedings against the minor, and punishments assessed against the minor. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court. The provisions of this subsection relating to the sealing of records do not apply to records of traffic offenses

(d) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent child or a child in need of and unless authorized by order of the court

(e) The court's official records under this chapter may be inspected only with the court's permission and only by persons having a legitimate interest in them. A person with a legitimate interest in the inspection of an official record maintained by the court includes a victim who suffered physical injury or whose real or personal property was damaged as a result of an offense that was the basis of an adjudication or modification of disposition. If the victim knows the identity of the minor, identifies the minor or the offense to the court, and certifies that the information is being sought to consider or support a civil action against the minor or against the minor's parents or guardians under AS 41.50.020, the court shall, subject to AS 12.61.110 and 12.61.140, allow the victim to inspect and use the following records and information in connection with the civil action:

(1) a petition filed under AS 47.10.010(a)(1) seeking to have the court declare the minor a delinquent,

SLA 1994, CH. 113

Cross references. — For a related provision, see AS 47.17.020(d).

NOTES TO DECISIONS

Cited in *M.O.W. v. State*, 646 P.2d 1229 (Alaska Ct. App. 1982).

Sec. 47.10.090. Records. (a) The court shall make and keep records of all cases brought before it. The court's official records may be inspected only with the court's permission and only by persons having a legitimate interest in them. All information and social records pertaining to a minor and prepared by an employee of the court or by a federal, state or city agency in the discharge of the employee's or agency's official duty, including driver's license action under AS 28.15.185, are privileged and may not be disclosed directly or indirectly to anyone without the court's permission. However, a state or city law-enforcement agency shall disclose information regarding a case which is needed by the person or agency charged with making a preliminary investigation for the information of the court. The court shall forward a record of adjudication of a violation of an offense listed in AS 28.15.185(a) to the Department of Public Safety, if the court imposes a license revocation under AS 28.15.185. Within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court relinquishes jurisdiction over the minor, the court shall order sealed all the court's official records, information and social records pertaining to that minor, as well as records of all driver's license proceedings under AS 28.15.185, criminal proceedings against the minor and punishments assessed against the minor except for traffic offenses. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court.

(b) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent child or a child in need of aid unless authorized by order of the court, except that the name of a minor who is found for the second time to have violated a law, which if committed by an adult would be a felony, shall be made public unless the court, for good cause shown, in certain individual cases, enters an order prohibiting the disclosure.

(c) A person who violates a provision of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500 or by imprisonment for not more than one year, or by both. (§ 10(3)(4) art I ch 145 SLA 1957; am § 1 ch 124 SLA 1972; am § 1 ch

90 SLA 1975; am § 20 ch 03 SLA 1977; am § 4 ch 130 SLA 1988; am § 56 ch 50 SLA 1989)

Effect of amendments. — The 1988 amendment, effective September 1, 1988, in subsection (a), inserted "including traffic offenses and driver's license action under AS 28.15.185" in the third sentence and "driver's license proceedings under AS 28.15.185" in the next-to-last sentence, and inserted the fifth sentence. The 1989 amendment, effective May 27, 1989, deleted "traffic offenses and" following "including" in the third sentence in subsection (a).

NOTES TO DECISIONS

Purpose for enacting subsection (a). — Reading this section together with other sections of the laws relating to children's proceedings leads one to believe that subsection (a) was enacted principally for the purpose of protecting the child against the possible adverse effects an unauthorized revelation of his social record would have. In re P.N., 533 P.2d 13 (Alaska 1975).

There is no indication that subsection (a) was intended to authorize the granting of testimonial use immunity to parents. In re P.N., 533 P.2d 13 (Alaska 1975).

The supreme court could not say with certainty that this section would be construed to forbid the use, in a subsequent criminal action against a parent, of testimony that the parent gave at a children's proceeding. In re P.N., 533 P.2d 13 (Alaska 1975).

Confidentiality policy. — The policy

of confidentiality in Child in Need of Aid proceedings is not absolute. The court has discretion to disclose records in CINA proceedings under subsection (a). *Chiron v. State*, 768 P.2d 1279 (Alaska Ct. App. 1988).

Superior court's records release order did not violate state or federal rights of privacy, where the order was intended to facilitate an expeditious and comprehensively monitored reunion of the child and her father, and the order's scope was limited to agencies directly involved in providing resources to the parties in the case. In re A.B., 791 P.2d 616 (Alaska 1990).

Quoted in *Sledge v. State*, 763 P.2d 1364 (Alaska Ct. App. 1988).

Stated in *RLR v. State*, 487 P.2d 27 (Alaska 1971).

Cited in *M.O.W. v. State*, 646 P.2d 1229 (Alaska Ct. App. 1982); *State v. R.H.*, 683 P.2d 269 (Alaska Ct. App. 1984).

Sec. 47.10.095. Arrest of a minor. The arrest of a minor other than for a traffic offense is not considered an arrest for any purpose except for the purpose of the disposition of a proceeding arising out of that arrest. (§ 2 ch 124 SLA 1972)

Sec. 47.10.097. Fingerprinting of minors. (a) Except as provided in (b) of this section, a minor in the custody of the department or of a law enforcement agency may not be fingerprinted for reference to or entry into the Alaska automated fingerprint system without a court order upon good cause shown.

(b) A law enforcement officer may fingerprint a minor who is 16 years of age or older for reference to or entry into the Alaska automated fingerprint system without a court order when the minor is convicted of, or adjudicated a delinquent for, an offense that is a felony.

(c) Fingerprint records under this section are not subject to AS 47.10.090. (§ 3 ch 121 SLA 1988)

Alaska State Legislature

REPRESENTATIVE
GENE THERRIALT

Mailing Address:
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(907) 488-0862
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House Of Representatives

Write to Jenean
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99801-1182
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Fax: (907) 465-3884

House District 33

September 19, 1994

Deborah Wing, Director
Division of Family and Youth Services
P.O. Box 110630
Juneau, AK 99811-0630

Dear Deborah:

I am currently exploring the possibility of introducing legislation that would allow the courts to release the name and picture of a minor adjudicated a delinquent on a second offense, which, if committed by an adult, would be a felony. As you may be aware, such a provision was included in AS 47.10.090(b) up until last year, when it was deleted by Senate Bill 54.

During my research, I spoke with a member of your staff, Kathy Tibbles, who believes such legislation would jeopardize funding the state receives through the Federal Payments for Foster Care and Adoption Assistance program of the Social Security Act. Ms. Tibbles believes such funding would be jeopardized under Title IV-E Sec. 471 [42 U.S.C. 671] (a) (8) of the Act.

However, in researching the topic further, I requested a legal opinion on the subject of federal funding from legislative attorney Jack Chenowith and received the enclosed response. As stated in his September 16 memorandum, Mr. Chenowith believes, in the absence of further proof, that the department's concerns are unfounded. Therefore, I would like to request that you provide me with whatever information the department has that indicates this legislation could jeopardize federal funding. Thank you in advance for your attention to my request. If you have any questions, please direct them to my staff member, Wilda Whitaker, at 488-0862.

Sincerely,

Handwritten signature of Gene Therriault in cursive.
Gene Therriault
Representative

CORRESPONDENCE FROM

DFYS & LEGAL SERVICES

FEDERAL PAYMENTS FOR FOSTER CARE & ADOPTION ASSISTANCE

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 4
To Rep. Therriault	From Jack Chenoweth	
Co.	Co. Legal Services	
Dept.	Phone # 465-2450	
Fax # 488-4271	Fax # 465-2029	

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

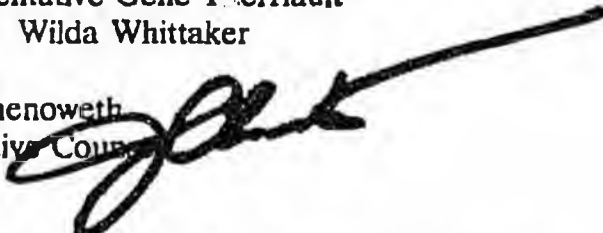
MEMORANDUM

September 16, 1994

SUBJECT: Disclosure of court records of the names and pictures of certain minors adjudicated as delinquents
(Work Order No. 9-LS0077A)

TO: Representative Gene Therriault
ATTN: Wilda Whittaker

FROM: Jack Chenoweth
Legislative Council



Before its recent repeal and reenactment by ch. 113, SLA 1994, AS 47.10.090(b) provided:

(b) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent child or a child in need of aid unless authorized by order of the court, except that the name of a minor who is found for the second time to have violated a law, which if committed by an adult would be a felony, shall be made public unless the court, for good cause shown, in certain individual cases, enters an order prohibiting the disclosure.

By my reading of this provision, the identity of a minor might be released to the public if the minor had violated a law—in other words, the minor was presumably the object of a delinquency petition based upon a violation of a statute or ordinance—the minor had a previous violation, and the current violation would amount to a felony.

That kind of disclosure provision did not carry forward into ch. 113's revision of the statute law relating to records of juveniles. Your work order request asks for it to be restored.

The enclosed draft is my response to that request. As you may readily see, the amending language first distinguishes juveniles subject to delinquency (as opposed to "child in need of aid") determinations. I've tried to follow what I understand to be the concept of former AS 47.10.090(b), treating "who is found for the second time to

Representative Gene Therriault
September 16, 1994
Page 2

have violated the law" as generally equivalent of a second adjudication of delinquency. Understand that, as drafted, disclosure of identity may not precede the court's entry of a second adjudication of delinquency, both of which involve felony offenses. Thereafter, however, a disclosure may occur on the basis of, say, the minor's arrest.

*

You've directed my attention to an objection by the Department of Health and Social Services to release of information under a proposed modified statute as to certain juveniles for whom money is received under Title IV-E of the Social Security Act. The particular statute in question is 42 U.S.C. 671(a)(8). The department is apparently of the view that a revision of the statute as proposed would jeopardize federal support for state programs.

As we discussed, I have not been able to confirm that the department's objection is well-founded. A quick scan of the decisions annotated under that statutory section does not indicate a decision in which a court has determined that a state law authorizing disclosure may jeopardize federal aid to a state. In a quick review of pertinent regulations, I found nothing.

In the absence of evidence on the point, I suggest that the burden should be on the department to support its assertion. If it can point to an opinion of legal counsel for the United States Department of Health & Human Services, a federal departmental regulation, or an opinion of the attorney general (in this or, indeed, in any state), I'd be happy to review the conclusion and reasoning. But if all there is in support of the assertion of jeopardized financial support is the assertion itself, then I am at a loss to see that the department's fear is necessarily valid.

With respect to the language of the federal statute, one could as well argue, I suppose, that the information that may not be publicly disclosed is only that information that is obtained by the agency in the course of providing foster plan or adoption assistance--the information that relates to or arises out of the act(s) of the state agency in providing that assistance. Safeguarding information concerning that kind of program-related assistance is understandable on several levels. The upshot of that interpretation, it seems to me, would be to permit a state to enact a statute permitting disclosure of the identity of a child for whom assistance is provided under the state plan if the basis of the disclosure did not, in and of itself, relate to activity or assistance provided by the agency under the federal Act.

In other words, I think there is room to fashion the argument that 42 U.S.C. 671(a)(8) does not have the broadly protective reach that state officials are contending it has, that certainly it does not protect against disclosure any and all acts of minors for whom the state receives assistance under the Social Security Act.

Representative Gene Therriault
September 16, 1994
Page 3

However, even if that interpretation is shown to be incorrect, it would be possible, it seems to me, to modify the enclosed language to provide safeguards that are consistent with the requirements of the section of federal law cited.

Before proceeding in this area, interested legislators should solicit and obtain from agency personnel a comprehensive explanation of the basis for their assertion that the statute in question provides complete protection against disclosure of all records relating to minors for whom financial assistance is provided under Title IV of the Social Security Act.

JBC:lmb
94-184.lmb

Enclosure

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

P.O. BOX 110630
JUNEAU, ALASKA 99801-0630
PHONE: (907) 465-3170

November 14, 1994

The Honorable Gene Therriault
Alaska State Legislature
House of Representatives
P.O. Box 55326
North Pole, Alaska 99705

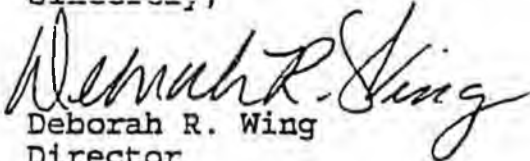
Dear Representative Therriault:

I apologize for the delay in responding to your letter of September 19, 1994, regarding the release of names and pictures of minors adjudicated delinquent. However, you asked that I provide you with information indicating that such legislation would jeopardize federal funding, and I have just recently received written documentation.

Kathy Tibbles, who has spoken with your staff, had several discussions on this issue with Federal staff in Region X during the last Alaska Legislative session. The language that had been contained in AS 47.10.090(b) was problematic, as was release of records language proposed in various versions of SB 54, but we had never received anything in writing.

Following receipt of your letter and Mr. Chenoweth's opinion, Ms. Tibbles requested a written opinion from the Administration for Children and Families. That opinion has been received and is attached. As you will see, it disagrees with Mr. Chenoweth and confirms the information given by Ms. Tibbles. We believe that passage of legislation such as you suggest will have a negative impact on the Division's budget in excess of \$6 Million.

Sincerely,


Deborah R. Wing
Director



Region X
M/S _____
2201 Sixth Avenue
Seattle, WA 98121

November 9, 1994

Debra Wing, Director
DHSS/DFYS
PO Box 11601
Juneau, AK 99811-0630

Dear Ms. Wing:

This is to respond to your request for our opinion on potential legislation to release information about juvenile offenders to the public, particularly information from Title IV-B and IV-E case files. Federal regulations require that these files are to be kept confidential and the information only used to provide services to the child.

Both Title IV-E and Title IV-B are subject to the requirements of Section 471(a)(8) of the Social Security Act. (Refer to 45 CFR 1355.21). In addition, both Title IV-B and Title IV-E are subject to the confidentiality restrictions prescribed in 45 CFR 205.50. (Refer to 1355.30 (1)). Under 45 CFR 205.50, the release of information concerning applicants and recipients is restricted to specified purposes including, principally, the administration of certain Federal programs. The passage of the proposed Alaska legislation would result in violation of the federal requirements for the operation of both the Title IV-B and Title IV-E programs.

Title IV-E confidentiality requirements apply to all Title IV-E children placed under state child welfare agency responsibility, including those with delinquent behavior. Similarly, Title IV-B confidentiality requirements apply regardless of the reason the child is receiving Child Welfare Services. Once the information is in a Title IV-B or Title IV-E record, it cannot be released except in the circumstances specified in the regulations. This means that the records are kept confidential at all times, including times in which Title IV-E payments are not being made (such as during a placement in a locked detention facility). Confidentiality requirements apply to all of the information in the Title IV-B or Title IV-E record, not just the child welfare information. Under this restriction, other information in the file, such as criminal records concerning the child, cannot be shared.

If you have any questions or need further clarification, please contact Carol Overbeck at (206) 615-2558, ext. 3078.

Sincerely,

Richard D. McConnell
Chief, CCWD&R

Alaska State Legislature

REPRESENTATIVE
GENE THERRIALT

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House District 33



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House Of Representatives

Date: November 23, 1994
To: Jack Chenoweth
From: Wilda Whitaker, admin. assistant to Rep. Gene Therriault
Re: Juvenile record confidentiality

Earlier this summer I spoke with you concerning legislation that would allow the courts to release the name and picture of a minor adjudicated a delinquent on a second offense, which, if committed by an adult, would be a felony. As you know, the State Department of Family and Youth Services believes this legislation would jeopardize funding the state receives through the Federal Payments for Foster Care and Adoption Assistance program of the Social Security Act. I received an opinion from you that DFYS had not provided adequate information to back up this assertion. I requested further information from DFYS, which I received this week. I am forwarding it to you and would like to request, in writing if possible, an evaluation of the merits of the arguments presented in the letter. Thank you.

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
F:LY (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 17, 1995

SUBJECT: Disclosure of court records of the names and pictures of certain minors adjudicated as delinquents (Work Order No. 9-LS0077C)

TO: Representative Gene Therriault
ATTN: Wilda Whittaker

FROM: Jack Chenoweth
Legislative Council 

I appreciate the Division of Family and Youth Services' efforts to obtain written guidance from appropriate federal administrators concerning their basis for asserting that disclosure of information about minors adjudicated delinquent may jeopardize payment of federal financial assistance to the Division for programs that are assisted under Title IV-B and Title IV-E of the Social Security Act. Case law does indeed support the federal officials' contention that the statute ^{1/} provides continuing protection of the confidentiality of program-related

^{1/} The federal statute in question is 42 U.S.C. 671(a)(8), section 471(a)(8) of the Social Security Act:

In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which

(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with

(A) the administration of the plan of the State approved under this part [or under other specified program titles], or the supplementary security income program . . . ,

(B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program,

(C) the administration of any other Federal or federally assisted program which provides assistance, cash or in kind, or services, directly to individuals on the basis of need,

Representative Gene Therriault

January 17, 1995

Page 2

information concerning persons assisted with federal financial support paid under the Adoption Assistance and Child Welfare Act, 42 U.S.C. 620 et seq., part of the Social Security Act.²

Nonetheless, I am not persuaded that the federal statute cited and the interpretation relied upon necessarily prevent courts from releasing the name and address of a minor, the minor's picture, and the criminal law provision that is the basis of the minor's delinquency adjudication, even as to a minor for whose care the Department of Health and Social Services receives money under the relevant provisions of the Social Security Act.

Recall that this work order asks us to restore the language of the former "information release" provision, AS 47.10.090(b). That provision, now repealed, permitted release of the name of

(D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and

(E) reporting and providing information pursuant to [42 U.S.C. 671(a)(9)] to appropriate authorities with respect to known or suspected child abuse or neglect

² I found only two decisions, Wilder v. Bernstein, 645 F.Supp. 1292, 1339 (S.D.N.Y. 1986), aff'd 848 F.2d 1338 (2d Cir. 1988), and In re F.E.F., 594 A.2d 897, 903 n. 4 (Vt. 1991), in which 42 U.S.C. 671(a)(8) is specifically referenced. In each instance, the reference is hardly more than a mention without discussion.

A small but significant body of case law more fully considers a substantially similar "information and records safeguard" provision, 42 U.S.C. 602(a)(9), in conjunction with administration of the aid to families with dependent children (AFDC) program. See, for example, Michigan Welfare Rights Organization v. Dempsey, 462 F.Supp. 227 (E.D. Mich. 1978) (the privacy right of individuals who apply for or receive assistance under the AFDC program requires nondisclosure, except as Congress has specifically authorized disclosure by law), Haskins v. San Diego County Department of Public Welfare, 161 Cal. Repr. 385 (Cal. App. 4th Dist. 1980) (the federal law imposes a duty on the states, counties, and municipalities administering the AFDC program to protect against use and disclosure of program records except for purposes identified by the federal law), Whisler v. Whisler, 684 P.2d 1025 (Kan. App. 1984) (disclosure of information regarding AFDC applicants and recipients is limited to instances enumerated in 42 U.S.C. 609(a)(9)).

Representative Gene Therriault

January 17, 1995

Page 3

a minor under the jurisdiction of the court for a second offense without specifying whether the court or the appropriate agency would make that release. Last session's revisior. of the juvenile justice provisions, ch. 113, SLA 1994, divided the handling of records into two sections, one concerned with what courts are to do and one concerned with state and municipal agencies.

This measure, as last drafted, would impose the information disclosure duty only as to the records that are maintained by the courts. The draft does not address what an agency is to do.

Except possibly for the matter of the minor's picture, arguably none of this information that the courts would be obliged to disclose is obtainable solely from the program-related records of the Division of Family and Youth Services. The minor's name and the identification of the offense committed would surely appear in the delinquency adjudication petition filed with the court; presumably the court would secure information about the minor's address from another source in the course of the proceedings; I honestly don't know whether a picture of the minor is taken and is a matter of court record in all juvenile cases but, as the response to the work order was drafted, the minor's picture must be disclosed "if available."

A key conclusion in Mr. McConnell's November 9 letter is set out at the end of its third paragraph:

... Confidentiality requirements apply to all of the information in the Title IV-B or Title IV-E record, not just the child welfare information. Under this restriction, other information in the file, such as criminal records concerning the child, cannot be shared.

Thus, as I understand, the information that may not be disclosed is information that is obtained by the agency in the course of providing program assistance supported by federal appropriations, to information that relates to, or arises out of, or is secured by the state agency in providing that program assistance.

However, if the information which is part of the file is at the same time a part of another disclosable record, then there should be no limitation on disclosure of the information from that alternate source. Surely 42 U.S.C. 671(a)(8) was not intended to have a protective reach beyond records compiled by the state agency to which federal financial assistance is payable. The federal statute does not appear to me to refer to and should not be cited as the reason for protecting against disclosure, information about all acts of minors for whom the state receives assistance under a facet of the Social Security Act if the information or record is available from another source. To conclude otherwise--to say that the federal statute safeguards against public disclosure the records of any state agency applicable to minors for whose benefit the state is receiving assistance under the Social Security Act--establishes a double standard that, arguably, violates equal protection provisions of the federal and state constitutions.

JBC:glc

95-053.glc

ENCOURAGEMENT OF STATES TO ADOPT SIMPLE CIVIL PROCESS FOR VOLUNTARILY ACKNOWLEDGING PATERNITY AND A CIVIL PROCEDURE FOR ESTABLISHING PATERNITY IN CONTESTED CASES

SEC. 468. [42 U.S.C. 668] In the administration of the child support enforcement program under this part, each State is encouraged to establish and implement a simple civil process for voluntarily acknowledging paternity and a civil procedure for establishing paternity in contested cases.

COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA

SEC. 469. [42 U.S.C. 669] (a) The Secretary of Health and Human Services shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to each of the services specified in subsection (b) (separately stated in the case of each such service for families receiving aid under plans approved under part A and for families not receiving such aid), on—

- (1) the number of cases in the child support enforcement agency caseload under part D which need the service involved; and
 - (2) the number of such cases in which the service has actually been provided.
- (b) The services referred to in subsection (a) are—
- (1) paternity determination;
 - (2) location of an absent parent for the purpose of establishing a child support obligation;
 - (3) establishment of a child support obligation; and
 - (4) location of an absent parent for the purpose of enforcing or modifying an established child support obligation.

(c) For purposes of subsection (a)(2), a service has actually been provided when the task described by the service has been accomplished.

PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE¹¹²

PURPOSE APPROPRIATION¹¹³

SEC. 470. [42 U.S.C. 670] For the purpose of enabling each State provide, in appropriate cases, foster care and transitional independent living programs for children who otherwise would be eligible for assistance under the State's plan approved under part A and adoption assistance for children with special needs, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1980) such sums as may be necessary to carry out the provisions of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part.

STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

¹¹²See Vol. II, P.L. 99-177, § 756, with respect to treatment of foster care and adoption assistance programs.

¹¹³See Vol. II, P.L. 100-505, §§ 201 and 301, with respect to a study and report on assistance.

SEC. 471. [42 U.S.C. 671] (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

(1) provides for foster care maintenance payments in accordance with section 472 and for adoption assistance in accordance with section 473;

(2) provides that the State agency responsible for administering the program authorized by part B of this title shall administer, or supervise the administration of, the program authorized by this part;

(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, and under any other appropriate provision of Federal law;

(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the "State agency") will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this title (including activities under part F)¹¹⁴ or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need,¹¹⁵ (D) any audit or similar activity conducted in connec-

¹¹⁴P.L. 100-485, [202(e)(1), struck out "C, or D of this title" and substituted "or D of this title (including activities under part F)". For the effective date, see Vol. II, P.L. 100-182, § 201(a) and (b)(1).

¹¹⁵P.L. 101-508, § 505(b)(2)(A), struck out "and".

tion with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect¹⁰⁰; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

(9) provides that the State agency will—

(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;¹⁰¹

(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance to assure their continuing appropriateness;

(12) provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness;

(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

¹⁰⁰P.L. 101-504, § 202(b)(2)(H), added "and" and subparagraph (E), applicable to benefits for months beginning on or after May 1, 1991.

¹⁰¹P.L. 101-504, § 202(b)(1), amended paragraph (B) in its entirety, applicable to benefits for months beginning on or after May 1, 1991. Until then, paragraph (B) read as follows:

"(B) provides that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency."

(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

(15) effective October 1, 1983, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home;

(16) provides for the development of a case plan (as defined in section 475(1)) for each child receiving foster care maintenance payments under the State plan and provides for a case review system which meets the requirements described in section 475(6)(B) with respect to each such child; and¹⁰²

(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part.

(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.

FOSTER CARE MAINTENANCE PAYMENTS PROGRAM¹⁰³

Sec. 472. [42 U.S.C. 672] (a) Each State with a plan approved under this part shall make foster care maintenance payments (as defined in section 475(4)) under this part with respect to a child who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative (specified in section 406(a)), if—

(1) the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or

¹⁰²See Vol II, P.L. 96-272, § 102(e), with respect to the Secretary's report to Congress on the number of children placed in foster care pursuant to certain voluntary placement agreements.

¹⁰³See Vol II, P.L. 96-272, § 102(e), with respect to the Secretary's report to Congress on the number of children placed in foster care pursuant to certain voluntary placement agreements.

legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and (effective October 1, 1983) that reasonable efforts of the type described in section 471(a)(15) have been made;

(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 471, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 471 has made an agreement which is still in effect;

(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and

(4) such child—

(A) received aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated, or

(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made.

In any case where the child is an alien disqualified under section 245A(h), 210(f), or 210A(d)(7) of the Immigration and Nationality Act²⁰ from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(2)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.

(b) Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term "foster care maintenance payments" (as defined in section 475(4)).

(c) For the purposes of this part, (1) the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as

meeting the standards established for such licensing; and (2) the term "child-care institution" means a nonprofit private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(d) Notwithstanding any other provision of this title, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 427(b).

(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

(f) For the purposes of this part and part B of this title, (1) the term "voluntary placement" means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term "voluntary placement agreement" means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

(g) in any case where—

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

(h) For purposes of titles XIX and XX, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent



ALASKA COUNCIL OF SCHOOL ADMINISTRATORS

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POSITION STATEMENT

HOUSE BILL NO. 15

"An Act authorizing disclosure from court records of the name, address, and picture of, and other information about, certain minors for whom a delinquency petition is filed."

The Alaska Council of School Administrators supports the passage of HB 15.

For years school administrators have had to deal with troubled students with only limited information. For years school records were required to be made available to other state agencies involved with troubled youth without any reciprocity or exchange of information as to the degree of the difficulty or the extent of the findings of the court. This lack of exchange of information as greatly limited the ability of the school to work in a constructive way with these youths as well as insuring the school being a safe place for all students to be.

The times have changed significantly. We are dealing with youth violence to such a degree both inside and outside of the school setting that this lack of information exchange only creates a barrier for the school and other social and protection agencies to work together. The crimes that are being committed are more violent and destructive than at any other time in our society.

Parents demand and are entitled to know they are sending their child to a school environment which is free of violence and a safe haven of learning. Principals are entitled to know the complete record of the students they are dealing with on a regular basis. A more productive solution may be reached when there is a free exchange of information and open discussion of the potential solutions in dealing with the troubled youth.

The Department of the Treasury Federal Law Enforcement Training Center has conducted training in "the Safe Policy Seminar". They have proven that with all agencies involved with the problem solving of the youth violence and safe schools, there is a much higher rate of success than each agency working independently.

Because of the nature of the society we are dealing with today, it is time that there is a freedom of information by all agencies involved with youth to enable us all to focus on solutions. This can only occur when all parties have a true picture and complete information of the children we deal with.

The Alaska Council of School Administrators believes this legislation is long overdue and must be passed.

Stephen T. McPhetres
Executive Director



Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

DATE: FEB 07 1995

PLACE: Capitol Room 106

SUBJECT OF MEETING:
HB 15: PUBLIC DISCLOSURE
OF MINORS COURT
RECORDS

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Gene Theriault	HDST 33				4797	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 15
Kathy Tibbles	DFYS				3023	<input checked="" type="radio"/> N <input type="radio"/> Y	HB 15
Vernon Marshall	WEA-AK					<input checked="" type="radio"/> Y <input type="radio"/> N	
Elmer Lundstrom	DHSS			465-3030	465-3030	<input checked="" type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	

HB

23

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 2/7/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 23

HOUSE BILL NO. 23

REFERRALS INVOLVING DENTAL SERVICES

"An Act relating to referrals involving dental services."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) C + E D zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CHAIR'S SIGNATURE *[Signature]*

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 23

Revision Date: February 6, 1995 Department: Commerce and Economic Development
 Title: An Act relating to referrals involving dental services. BRU: Occupational Licensing
 Component: Operations
 Sponsor: Representative G. Davis
 Requestor: Representative G. Davis COMPONENT SERIAL #: 1844

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ 0.0

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

HB 23 amends the dental statutes providing grounds for discipline, suspension, or revocation of a license if a dentist receives compensation for referring a person to another dentist or dental practice. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Admin. Officer Phone: 465-2144
 Division: Occupational Licensing Date: 2/6/95
 Approved by Commissioner: William L. Hensley Date: 2/6/95
 Agency: Commerce and Economic Development

Alaska State Legislature

Interim:
P.O. Box 1287
Soldotna, AK 99669
(907) 262-8414




Session:
State Capitol
Juneau, AK 99801
(907) 465-2693

Representative Gary L. Davis

MEMORANDUM

January 24, 1995

TO: Representative Con Bunde, Co-Chair
House HESS Committee
Representative Cynthia Toohey, Co-Chair
House HESS Committee

FROM: Representative Gary Davis 

RE: House Bill 23, "An Act relating to referrals involving dental services."

I respectfully request that House Bill 23 be scheduled for a hearing in the HESS Committee at your earliest convenience.

House Bill 23 will prohibit the receipt of compensation by a dentist for referring a person to another dentist or dental practice. The American Dental Association Code of Ethics forbids dentists from profiting from referrals. This legislation codifies the ethical concern relating to referrals.

In Section 2, the receipt of compensation by a person or advertisement referring a dental service is prohibited unless the compensation for referral is disclosed at the time of referral. This legislation will help ensure that patients are being referred to a dentist or dental practice as a result of their quality service.

The Alaska Dental Society has had several breaches of their ethics code and their board has requested this legislation. I feel this is an appropriate legislative function of the Board of Dental Examiners under AS 08.36.315.

Thank you for considering this legislation.

SPONSOR REQUEST FOR HEARING/SPONSOR STATEMENT

Representing House District 8 - Soldotna to Seward

Alaska State Legislature

Interim:
P.O. Box 1287
Soldotna, AK 99669
(907) 262-8414



Session:
State Capitol
Juneau, AK 99801
(907) 465-2693

Representative Gary L. Davis

SECTIONAL ANALYSIS

HOUSE BILL 23

"An Act relating to referrals involving dental services."

Section 1 - Amends AS 08.36.315. Grounds for discipline, suspension or revocation of license. Adds a new subsection relating to the grounds for discipline, suspension, or revocation of a license for the receipt of compensation for referring a person to another dentist or dental practice.

Section 2 - Amends AS 45.50.471 (b). Unlawful acts and practices. Adds two new paragraphs relating to the receipt of compensation by a dentist or advertiser for referring a person to a dentist or dental practice.

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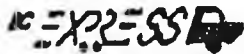
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Back-up for HB 23

American Dental Association

Back-up for HB 23

~~BACK~~

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AND CODE OF

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PROFESSIONAL
CONDUCT

American Dental Association
Council on Ethics, Bylaws and Judicial Affairs
211 East Chicago Avenue
Chicago, Illinois 60611
With official advisory opinions
revised to January, 1993

With official advisory opinions
revised to January, 1993.

ADA.

Back-up for HB 23

Principle - Section 5

PROFESSIONAL ANNOUNCEMENT.

In order to properly serve the public, dentists should represent themselves in a manner that contributes to the esteem of the profession. Dentists should not misrepresent their training and competence in any way that would be false or misleading in any material respect.*

Code of Professional Conduct

5-A. ADVERTISING.

Although any dentist may advertise, no dentist shall advertise or solicit patients in any form of communication in a manner that is false or misleading in any material respect.*

Advisory Opinions

1. If a dental health article, message, or newsletter is published under a dentist's byline to the public without making truthful disclosure of the source and authorship or is designed to give rise to questionable expectations for the purpose of inducing the public to utilize the services of the sponsoring dentist, the dentist is engaged in making a false or misleading representation to the public in a material respect.
2. The Council on Ethics, Bylaws and Judicial Affairs believes it would be of service to the members to provide some insight into the meaning of the term "false or misleading in a material respect." Therefore, the following examples are set forth. These examples are not meant to be all-inclusive. Rather by restating the concept in alternative language and giving general examples, it is hoped that the membership will gain a better understanding of the term. With this in mind, statements shall be avoided which would: a) contain a material misrepresentation of fact, b) omit a fact necessary to make the statement considered as a whole not materially misleading, c) contain a representation or implication regarding the quality of dental services which would suggest unique or general superiority to other practitioners which are not susceptible to reasonable verification by the public, and d) be intended or be likely to create an unjustified expectation about results the dentist can achieve.
3. The use of an unearned or nonhealth degree in any general announcements to the public by a dentist may be a representation to the public which is false or misleading in a material respect. A dentist may use the

of unearned or nonhealth degrees could be misleading because of the likelihood that it will indicate to the public the attainment of a specialty or diplomate status. It may also suggest that the dentist using such is claiming superior dental skills.

For purposes of this advisory opinion, an unearned academic degree is one which is awarded by an educational institution not accredited by a generally recognized accrediting body or is an honorary degree. Generally, the use of honorary degrees or nonhealth degrees should be limited to scientific papers and curriculum vitae. In all instances state law should be consulted. In any review by the council of the use of nonhealth degrees or honorary degrees, the council will apply the standard of whether the use of such is false or misleading in a material respect.

4. A dentist using the attainment of a fellowship in a direct advertisement to the general public may be making a representation to the public which is false or misleading in a material respect. Such use of a fellowship status may be misleading because of the likelihood that it will indicate to the dental consumer the attainment of a specialty status. It may also suggest that the dentist using such is claiming superior dental skills. However, when such use does not conflict with state law, the attainment of fellowship status may be indicated in scientific papers, curriculum vitae, third party payment forms, and letterhead and stationery which is not used for the direct solicitation of patients. In any review by the council of the use of the attainment of fellowship status, the council will apply the standard of whether the use of such is false or misleading in a material respect.

5. There are two basic types of referral services for dental care: not-for-profit and the commercial.

The not-for-profit is commonly organized by dental societies or community services. It is open to all qualified practitioners in the area served. A fee is sometimes charged the practitioner to be listed with the service. A fee for such referral services is for the purpose of covering the expenses of the service and has no relation to the number of patients referred.

In contrast, experience has shown that commercial referral services generally limit access to the referral service to one dentist in a particular geographic area. Respective patients calling the service are referred to the single subscribing dentist in the area.

the referral fee paid by the dentist. There is a connotation to such advertisements that the referral that is being made is in the nature of a public service.

A dentist is allowed to pay for any advertising permitted by the Code, but is generally not permitted to make payments to another person or entity for the referral of a patient for professional services. While the particular facts and circumstances relating to an individual commercial referral service will vary, the council believes that the aspects outlined above for commercial referral services violate the Code in that it constitutes advertising which is false or misleading in a material respect and violate the prohibitions in the Code against fee splitting.

6. An advertisement which omits a material fact or facts necessary to put the information conveyed in the advertisement in a proper context can be misleading in a material respect. An advertisement to the public of HIV negative test results, without conveying additional information that will clarify the scientific significance of this fact, is an example of a misleading omission. A dental practice should not seek to attract patients on the basis of partial truths which create a false impression.

5-B. NAME OF PRACTICE.

Since the name under which a dentist conducts his or her practice may be a factor in the selection process of the patient, the use of a trade name or an assumed name that is false or misleading in any material respect is unethical.

Use of the name of a dentist no longer actively associated with the practice may be continued for a period not to exceed one year.*

Opinion

1. Dentists leaving a practice who authorize continued use of their names should receive competent advice on the legal implications of this action. With permission of a departing dentist, his or her name may be used for more than one year, if, after the one year grace period has expired, prominent notice is provided to the public through such mediums as a sign at the office and a short statement on stationery and business cards that the departing dentist has retired from the practice.

5-C. ANNOUNCEMENT OF

Back-up for HB 23

February 25, 1994

Dr. Pitts -

These are the incidents that I know of that pertain to the dental referral service. Is this what you want?

In Fairbanks, a dentist called the dental referral service and was told that the service only referred to dentists:
who were in good standing with the dental society, and
who did high quality work

The dentist replied that this company must refer to most of the dentists in the Fairbanks area if that was the criteria which was used. The referral service then admitted that they refer to the dentists who pay them to refer.

In Anchorage a dentist expressed concern that one of his patients had called the dental referral service listed in the yellow pages for a referral to an orthodontist and made an appointment with the dentist to whom he was referred. During the initial evaluation the dentist related that because the nature of the case he would have to consult with an orthodontist.

The patient then questioned the dentist as to his qualifications because he was led to believe that he had come to an orthodontist, when in fact he had been referred to a general dentist.

Following this call to our office concerning the dental referral service, several people called the number listed in the telephone book, giving various names and home addresses in various parts of town, and requesting various specialists. No matter what zip code was given, no matter what specialist was requested, the referral service only referred to 2 practices in Anchorage. Neither office was a specialty practice. One was a member of the dental society, another was not. There are 150 dentists in the Anchorage area who are members of the dental society.

The dental referral service has never asked the dental society which dentists are in good standing.

Betty

Letter of Support - Betty Prentice
Director of Operations - AK Dental Society



Alaska Dental Society

3400 Spenard Road, Suite 10
Anchorage, Alaska 99503
(907) 277-4675 • FAX: 274-2860

February 6, 1995

Representative Gary Davis
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Representative Davis:

The Alaska Dental Society sincerely thanks you for agreeing to sponsor HB 23 "An Act relating to referrals involving dental services." We feel this action is necessary for two main reasons - the public's protection and to comply with dentistry's national code of ethics.

We came upon this matter when the dental society office was queried by a citizen as to why the referral made to her was incorrect. After investigation, it was discovered that even though the yellow page listing said"our caring receptionist will tell you about the dentist nearest you who best meets your needs"....all callers were referred to the same practitioner and unbeknownst to the caller, this particular dentist was chosen because he had paid the referring company for referrals. The caller had asked for an orthodontist and was surprised to discover after receiving treatment by the dentist seen (and paid) that she next needed to see a "real orthodontist" to properly finish her treatment.... Upon checking in other cities where the directory ad was placed, the same scenario was apparent as was the fact that in all instances, the caller was never informed that the dentist referred had paid for the referral.

The American Dental Association's Principles of Ethics and Code of Professional Conduct clearly states the following: "A dentist is generally not permitted to make payments to another person or entity for the referral of a patient for professional services.....it constitutes advertising which is false or misleading in a material respect and violates the prohibitions in the Code against fee splitting."

HB 23 will help in two ways. First - through the dental statutes, it says that receiving compensation for referring patients is a disciplinary offense. Second - through the unfair trade practices statute it says that any referral accompanied by pay back compensation must be disclosed in the advertising and by the referral source to the individual seeking the referral at the time the referral is made.

Again, we appreciate your assistance.

Sincerely,

Arne R. Pihl, DMD
President
Alaska Dental Society

HB

28

(9)

Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/21/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 28

HOUSE BILL NO. 28

POSSESSION OF GUNS ON SCHOOL PROPERTY

"An Act relating to the possession of weapons within the grounds of or on the parking lot of preschools, elementary, junior high, and secondary schools or while participating in a school-sponsored event; requiring the expulsion or suspension of students possessing deadly weapons on school grounds; and relating to school lockers and other containers provided in a public or private school by the school or the school district."

recommends it be replaced with the following committee substitute CS HB 28 (HES) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

2 zero fiscal note(s) Public Safety zero fiscal note(s) _____
Education

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>Caren Robinson</i>			✓	
<i>[Signature]</i>			✓	

CHAIR'S SIGNATURE *[Signature]*

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 28

Revision Date: _____

Department Affected: Education

Title: Possession of Guns on School Property

BRU: K-12 Support and Education Program Support

Component: Foundation Program and Special and Supplemental Services

Sponsor: Representative Bunde

Requester: Representative Bunde

COMPONENT SERIAL NO. 141 and 166

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
-----------------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

Federal legislation, *Gun Free Schools Act*, requires that each state, in order to receive funds under the Elementary and Secondary Education Act (ESEA), must enact a law by October 20, 1995 which mandates a one-year expulsion of a student who brings a weapon to school. Section 6 of HB 28 address this needed provision. In FY 95, the State of Alaska received over \$ 90 million, most of which went directly to local school districts, under ESEA. Please see the attached sheet for a break down on the funds received in FY 95.

Prepared by: Sheila Peterson *Sheila Peterson*

Phone: 465-2803

Division: Commissioner's Office

Date: _____

Approved by Commissioner: *Mike Maher*

Mike Maher, Acting Commissioner

Agency: Education

Date: _____

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Elementary and Secondary Education Act
FY 95 Program Funding
(Thousands of Dollars)

Chapter I	\$ 12,475.5
Chapter II	1,833.1
Migrant	6,983.1
Evenstart	250.0
Neglected and Delinquent	149.4
Eisenhower Grants	1,241.6
Drug Free Schools	1,371.2
Governor's Drug Free Schools	441.8
Equity	110.8
Bilingual	75.0
Impact Aid	66,000.0
TOTAL	\$ 90,930.5

FISCAL NOTE

STATE OF ALASKA

BILL NC

HB 28

1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety

Title: Possession of guns on school property BRU: Alaska State Troopers

Component: Detachments

Sponsor: Representative Bunde

Requestor: (H) HESS COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () <small>Revenue Code</small>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ -0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691

Division: Alaska State Troopers Date: 02/10/95

Approved by Commissioner: *Ronald L. Otte* Date: 2/12/95

Agency: Ronald L. Otte, Dept. of Public Safety

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9-LS0151VF ✓
Luckhaupt
2/13/95

CS FOR HOUSE BILL NO. 28()

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES BUNDE, Rokeberg, Green, Toohey, Kott, Elton

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the possession of weapons within the grounds of or on the
2 parking lot of preschools, elementary, junior high, and secondary schools or while
3 participating in a school-sponsored event; requiring the expulsion or suspension of
4 students possessing deadly weapons on school grounds; requiring reports to the
5 Department of Education concerning those expulsions or suspensions; and relating to
6 school lockers and other containers provided in a public or private school by the
7 school or the school district."

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

9 * Section 1. AS 11.61.210(a) is amended to read:

10 (a) A person commits the crime of misconduct involving weapons in the fourth
11 degree if the person

12 (1) possesses on the person, or in the interior of a vehicle in which the

1 person is present, a firearm when the person's physical or mental condition is impaired
2 as a result of the introduction of an intoxicating liquor or a controlled substance into the
3 person's body in circumstances other than described in AS 11.61.200(a)(7);

4 (2) discharges a firearm from, on, or across a highway;

5 (3) discharges a firearm with reckless disregard for a risk of damage to
6 property or a risk of physical injury to a person;

7 (4) manufactures, possesses, transports, sells, or transfers metal knuckles;

8 (5) manufactures, sells, or transfers a switchblade or a gravity knife; [OR]

9 (6) knowingly sells a firearm or a defensive weapon to a person under 18
10 years of age;

11 (7) other than a preschool, elementary, junior high, or secondary
12 school student, knowingly possesses a deadly weapon or a defensive weapon, without
13 the permission of the chief administrative officer of the school or district or the
14 designee of the chief administrative officer, within the grounds of or on the parking
15 lot immediately adjacent to a public or private preschool, elementary, junior high,
16 or secondary school or while participating in a school-sponsored event, except that
17 a person 21 years of age or older may possess

18 (A) a deadly weapon other than a loaded firearm in the trunk
19 of a motor vehicle or encased in a closed container in a motor vehicle;

20 (B) a defensive weapon;

21 (C) an unloaded firearm if the person is traversing school
22 premises in a rural area for the purpose of entering public or private land
23 that is open to hunting and the school board with jurisdiction over the school
24 premises has elected to have this exemption apply to the school premises; in
25 this subparagraph, "rural" means a community with a population of 5,500
26 or less that is not connected by road or rail to Anchorage or Fairbanks or
27 with a population of 1,500 or less that is connected by road or rail to
28 Anchorage or Fairbanks; or

29 (8) being a preschool, elementary, junior high, or secondary school
30 student, knowingly possesses a deadly weapon or a defensive weapon, within the

1 grounds of or on the parking lot immediately adjacent to a public or private
2 preschool, elementary, junior high, or secondary school or while participating in a
3 school-sponsored event, except that a student may possess a deadly weapon, other
4 than a firearm as defined under 18 U.S.C. 921, or a defensive weapon if the student
5 has obtained the prior permission of the chief administrative officer of the school
6 or district or the designee of the chief administrative officer for the possession.

7 * Sec. 2. AS 11.61.210 is amended by adding a new subsection to read:

8 (d) The provisions of (a)(7) of this section do not apply to a peace officer acting
9 within the scope and authority of the officer's employment.

10 * Sec. 3. AS 11.61.220(a) is amended to read:

11 (a) A person commits the crime of misconduct involving weapons in the fifth
12 degree if the person

13 (1) knowingly possesses a deadly weapon, other than an ordinary pocket
14 knife or a defensive weapon, that is concealed on the person;

15 (2) knowingly possesses a loaded firearm on the person in any place
16 where intoxicating liquor is sold for consumption on the premises;

17 (3) being an unemancipated minor under 16 years of age, possesses a
18 firearm without the consent of a parent or guardian of the minor;

19 (4) knowingly possesses a firearm

20 [(A) OR A DEFENSIVE WEAPON WITHIN THE GROUNDS
21 OF OR ON A PARKING LOT IMMEDIATELY ADJACENT TO A PUBLIC
22 OR PRIVATE PRESCHOOL, ELEMENTARY, JUNIOR HIGH, OR
23 SECONDARY SCHOOL WITHOUT THE PERMISSION OF THE CHIEF
24 ADMINISTRATIVE OFFICER OF THE SCHOOL OR DISTRICT OR THE
25 DESIGNEE OF THE CHIEF ADMINISTRATIVE OFFICER, EXCEPT THAT
26 A PERSON 21 YEARS OF AGE OR OLDER MAY POSSESS

27 (i) AN UNLOADED FIREARM IN THE TRUNK OF A
28 MOTOR VEHICLE OR ENCASED IN A CLOSED CONTAINER IN A
29 MOTOR VEHICLE;

30 (ii) A DEFENSIVE WEAPON; OR

31 (B)] within the grounds of or on a parking lot immediately

1 adjacent to a center, other than a private residence, licensed under AS 47.33 or
2 AS 47.35 or recognized by the federal government for the care of children; or
3 (5) possesses or transports a switchblade or a gravity knife.

4 * Sec. 4. AS 14.03.080 is amended by adding a new subsection to read:

5 (f) This section does not require a school district to admit a child or person
6 currently under suspension or expulsion under AS 14.03.160 in that or another school
7 district.

8 * Sec. 5. AS 14.03 is amended by adding a new section to read:

9 Sec. 14.03.105. SCHOOL LOCKERS. (a) Subject to (b) of this section, a locker
10 or other container provided in a school by the school or the school district may be
11 searched and examined with the permission of the chief administrative officer of the
12 school or the school district or the designee of the chief administrative officer to
13 determine compliance with school regulations, school district regulations, and local, state,
14 and federal laws.

15 (b) Notices in letters at least two inches high stating the right and the intention
16 of school and school district officers to permit searches and examinations under (a) of
17 this section shall be posted in prominent locations throughout a school.

18 (c) Nothing in this section limits the ability of a peace officer, chief
19 administrative officer, or other appropriate person, acting in compliance with local, state,
20 or federal laws, to search a locker or other container provided in a public or private
21 school by the school district.

22 * Sec. 6. AS 14.03 is amended by adding a new section to read:

23 Sec. 14.03.160. SUSPENSION OR EXPULSION OF STUDENTS FOR
24 POSSESSING WEAPONS. (a) Notwithstanding any other provision of law, a school
25 district shall

26 (1) expel for at least one year a student who violates AS 11.61.210(a)(8)
27 while possessing a firearm, as that term is defined under 18 U.S.C. 921;

28 (2) suspend for a least 30 days, or expel for the school year or
29 permanently, a student who violates AS 11.61.210(a)(8) while possessing a deadly
30 weapon, other than a firearm as that term is defined under 18 U.S.C. 921.

31 (b) The administrative officer of a school district may on a case-by-case basis

1 reduce or otherwise modify the expulsion or suspension of a student under (a) of this
2 section.

3 (c) A prior conviction, or adjudication of delinquency or child in need of aid, for
4 violation of AS 11.61.210(a)(8) is not necessary for a school board to suspend or expel
5 a student under this section.

6 (d) Each school district shall adopt a policy providing for the referral to law
7 enforcement authorities of students who violate AS 11.61.210(a)(8).

8 (e) Annually on a date set by the department, each school district shall report to
9 the department the number of students expelled under this section and the types of
10 weapons involved.

11 (f) In this section,

12 (1) "deadly weapon" has the meaning given in AS 11.81.900;

13 (2) "district" has the meaning given in AS 14.17.250.

14 * Sec. 7. AS 14.45 is amended by adding a new section to article 3 to read:

15 Sec. 14.45.190. SCHOOL LOCKERS. A private school may search school
16 lockers and other containers as provided in AS 14.03.105.



REPRESENTATIVE CON BUNDE
CO-CHAIR HEALTH, EDUCATION
& SOCIAL SERVICES
VICE-CHAIR RULES

Alaska State Legislature
House of Representatives

DURING SESSION:
STATE CAPITOL, ROOM 108
JUNEAU, ALASKA 99801-1182
1 (907) 465-4843

SPONSOR STATEMENT
HB 28

DURING INTERIM:
716 WEST 4th AVENUE
ANCHORAGE, ALASKA 99501-2133
1 (907) 258-8168

The increasing trend towards violence and guns in schools across the nation is the reason the Federal Gun Free Schools Act was passed by Congress. This act requires a school system, as a condition of receiving federal education funds, to implement a program for the control of guns and weapons in schools. HB 28 will put Alaska into compliance with the mandates of the Federal Gun Free Schools Act.

The possession of deadly weapons and defensive weapons on school grounds, in parking lots adjacent to public or private schools, and while participating in school events is prohibited within HB 28. However, a person can obtain permission from the chief administrative officer of a school to carry a prohibited weapon into a school. This provision will allow a school to use an existing gun range or continue functions within a school that require the legal use of a deadly or defensive weapon.

HB 28 provides for a one year expulsion or suspension of a student that possesses a weapon on school grounds. However, in instances of disabled or special education students the school administrator is granted the ability to modify the mandatory expulsion or suspension. Additionally, this legislation requires an annual statistical report to the Department of Education regarding the number of students expelled and the types of weapons involved. This provision will improve the way many school districts keep weapons reports. Both of these provisions are for compliance with the Gun Free Schools Act.

This legislation allows school locker searches in order to determine compliance with school regulations and state laws. The policy of locker searches must be posted in prominent locations throughout the school.

Alaska must comply with the Federal Gun Free Schools Act by passing this legislation, or our schools will lose needed federal dollars. However, the most important reason for passing this legislation is, schools cannot work well when students and teachers are concerned about their safety. The educational process stops when people are afraid. Although a wide range of underlying social ills contribute to violent incidents, children with guns and weapons in our schools is a strong catalyst for governmental action. I urge your favorable consideration of HB 28.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 14, 1995

SUBJECT: Sectional Summary of CSHB 28 (HES), draft, dated 2/13/95
(Work Order No. 9-LS0151\F)

TO: Representative Con Bunde
Attn: Patty

FROM: Jerry Luckhaupt *JL*
Legislative Counsel

You have asked for a sectional summary of the above-described bill. Please be advised that a sectional summary is not an authoritative statement of the contents of a bill - the bill itself is the best statement of its contents.

Section 1 of the bill amends AS 11.61.210(a) by providing that a person other than a student commits the crime of misconduct involving weapons in the fourth degree if the person possesses a deadly weapon¹ or a defensive weapon,² on school grounds or the parking lot of a preschool, elementary, junior high, or secondary school, in certain situations or while participating in a school sponsored event. This section also provides that a student commits the crime of misconduct involving weapons in the third degree if the student possesses a deadly weapon or a defensive weapon on school grounds or at a school-sponsored event, except that a student may possess a deadly weapon, other than a firearm as defined under federal law, or a defensive weapon with the permission of school authorities. Violation of this section is a class A misdemeanor.³ AS 11.61.220(g). The possession of firearms and defensive weapons is currently prohibited at schools and their grounds under AS 11.61.220-(a)(4) which is being repealed in sec. 3 of this bill.

¹ "Deadly weapon" is defined at AS 11.81.900(b)(13) as:

firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive . . .

² "Defensive weapon" is defined at AS 11.81.900(b)(16).

³ A class A misdemeanor is punishable as provided in AS 12.55.135 (imprisonment) and 12.55.035 (fine).

Representative Con Bunde

February 14, 1995

Page 2

Section 2 of the bill provides that a peace officer may possess a deadly weapon on school grounds.

Section 3 of the bill amends AS 11.61.220(a) to correspond with the change made in sec. 1 of the bill.

Section 4 of the bill amends AS 14.03.080 by adding a new subsection that provides that school officials do not have to admit a child under suspension or expulsion under AS 14.03.160, added in sec. 6 of the bill.

Section 5 of the bill amends AS 14.03 by adding a new section that provides for the search and examination of school lockers by school officials. Subsection (c) of that section, provides that this grant of authority does not diminish any separate authority to search that might exist.

Section 6 of the bill amends AS 14.03 by adding a new section that mandates expulsion or suspension for students that possess weapons on school grounds and requires reports from school districts concerning these suspensions and expulsions.

Section 7 of the bill amends AS 14.45 by adding a new section that permits private schools to search school lockers as provided in AS 14.03.105 (added by sec. 5 of the bill).

GPL:lmb:glc

95-121.lmb