

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8582 HOUSE JUDICIARY

**HB**

**10**



# ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE H. JUD. COMM.  
 COMMITTEE ON CS HB 10 (STA) DATED MARCH 31, 1995  
COMMITTEE NAME  
BILL/SUBJECT

I AM TESTIFYING ON BEHALF OF MADD IN FAVOR OF SUBJECT BILL.

PEOPLE WHO ABUSE ALCOHOL AND CAUSE CAR CRASHES SHOULD PAY THE PRICE, NOT THE GENERAL PUBLIC. ONE INCIDENT CAN COST THOUSANDS OF DOLLARS IN EMERGENCY RESPONSE TIME AND EQUIPMENT.

THE CITY OF FAIRBANKS PASSED AN ORDINANCE SIMILAR TO HB 10 SOME YEARS BACK. I JUST CHECKED WITH THE CITY ATTY'S OFFICE AND THEY REPORT OVER \$40,000 HAS BEEN COLLECTED SINCE PASSAGE OF THE ORDINANCE AND PAYMENTS CONTINUE TO COME IN. I HOPE YOU PASS THIS BILL.

SIGNED Glenn Hagisney (GLENN HAGISNEY)  
 TESTIFIER

MADD  
 REPRESENTING (OPTIONAL)

HOME ADDRESS: 1136 SUNSET DR.  
 ADDRESS/PHONE NUMBER FAIRBANKS, ALASKA 99709  
474-0610

No problem -  
except possibly -  
DWI offender will  
probably pay more  
in venue than other  
for same  
service -

9-LS0060NF

CS FOR HOUSE BILL NO. 10(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/22/95  
Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES DAVIES, Green

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to payment for emergency services responding to certain motor  
2 vehicle accidents."

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

4 \* Section 1. AS 28.35 030 <sup>DWI Statute</sup> is amended by adding a new subsection to read:

5 (n) If the act for which a person is convicted under this section contributes to  
6 a motor vehicle accident, the court shall order the person to pay the reasonable cost  
7 of any emergency services that responded to the accident, if the convicted person or  
8 the convicted person's insurer has not already paid the cost of the emergency services.  
9 If payment is required under this subsection, the payment shall be made directly to the  
10 emergency service and shall be equal to the actual cost of responding to the accident  
11 or the previous year's annual average cost of responding to a motor vehicle accident,  
12 whichever is higher. In this subsection, "emergency service" includes a peace officer,  
13 fire department, ambulance service, or emergency medical technician.

*This is type type of restitution*

# Alaska State Legislature

While in Fairbanks  
119 N. Cushman Street Suite 207  
Fairbanks, Alaska 99701  
(907) 456-8172  
FAX (907) 451-9293



While in Session  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4457  
FAX (907) 465-3519

Representative John Davies  
District 29

## HB 10 SPONSOR STATEMENT

HB 10 is an act that requires DWI offenders convicted of causing a motor vehicle accident to pay for the costs of emergency services that respond to the accident.

The problems and associated costs of driving while intoxicated are clear. According to national statistics, approximately one-half of all fatal motor vehicle accidents involve alcohol. According to the Department of Public Safety 40% of all DWI arrests involve repeat offenders. Furthermore, alcohol related injuries and fatalities cost Alaskans an estimated \$68 million per year (Department of Health and Social Service, 1985).

HB 10 attempts to address these problems in two manners. First, as a deterrent to those who drive while intoxicated by raising the financial penalty for doing so. By raising the financial burden to those breaking the law, HB 10 emphasizes the seriousness of the crime. Second, this bill shifts the financial responsibility of the emergency services that respond to alcohol-related accidents from law abiding, tax paying citizens to the convicted DWI offender.

Three states, California, Indiana, and Kansas have similar reimbursement laws.

B

\*\*\*CORRECTED\*\*\*

HOUSE COMMITTEE REPORT

3/20/95

(7) Date Referred: ~~March 21~~, 1995

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: March 18

The STATE AFFAIRS Committee considered:

HB 10

HOUSE BILL NO. 10

PAYMENT OF COSTS OF DWI ACCIDENTS

"An Act relating to payment for emergency services responding to certain motor vehicle accidents."

recommends it be replaced with the following committee substitute CS HB 10 (STA)  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) \_\_\_\_\_  zero fiscal note(s) CEO, LAW  
3/20/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<u>Brian D. Porter</u>	Porter			✓	
<u>Joseph Green</u>	Green	✓			
<u>Twan</u>	TWAN	✓			
<u>Jeanette James</u>	James	✓			
<u>J.aren Robinson</u>	ROBINSON	✓			
		(4)		(1)	

CHAIR'S SIGNATURE Jeanette James  
James

HOUSE COMMITTEE REPORT

3/20/95

(7)

Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: March 18

The STATE AFFAIRS Committee considered:

HB 10

HOUSE BILL NO. 10

PAYMENT OF COSTS OF DWI ACCIDENTS

"An Act relating to payment for emergency services responding to certain motor vehicle accidents."

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) \_\_\_\_\_

(2) [x] zero fiscal note(s) CEID  
law

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Jeannette James</i>	James	✓			
<i>Joseph Green</i>	Green	✓			
<i>Tuan Robinson</i>	TUAN	✓			
<i>Caran Robinson</i>	ROBINSON	✓			
		(4)			

CHAIR'S SIGNATURE Jeannette James

# FISCAL NOTE

No. 2  
 ill Version: HB 10  
 (H) Publish Date: 3/20/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: Payment of Costs of DWI Accidents  
 Sponsor: Representative DeVies  
 Requestor: \_\_\_\_\_

Department: Commerce and Economic Development  
 BRU: Insurance  
 Component: Operations  
 COMPONENT SERIAL NO. \_\_\_\_\_ #354

**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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES</b>						
---------------------------	--	--	--	--	--	--

**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 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) 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
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)  
 No fiscal impact.

Prepared by: Joan Brown, Administrative Officer Phone: 465-2507  
 Division: Insurance Date: 2/16/95  
 Approved by Commissioner: William L. Hensley Date: 2/23/95  
 Agency: Commerce and Economic Development

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# FISCAL NOTE

No. 1  
 Bill Version: HB 10  
 (H) Publish Date: 3/20/95

**STATE OF ALASKA  
 1995 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act relating to payment for emergency  
services responding to certain motor vehicle accidents." BRU: Legal Services  
 Sponsor: Representative Davies Component: Operations  
 Requester: Representative Davies 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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

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						
<b>TOTAL</b>	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 amends AS 28.35 to provide that a person convicted of driving while intoxicated, who contributes to a motor vehicle accident, be required to pay the cost of any emergency services that responded to the accident. Currently, courts have the discretionary power to order reimbursement under these circumstances, when a convicted DWI defendant is sentenced. This bill would make reimbursement of emergency responders mandatory. There will not be a fiscal impact for the Department of Law, because this is a sentencing provision that does not directly involve the department.

Prepared by: Richard T. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2/15/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/15/95  
 Agency: Department of Law

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# FISCAL NOTE

STATE OF ALASKA

BILL NO: HB 10

1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An act relating to payment for emergency services respond... to motor vehicle accidents." Alaska State Troopers  
 Component: Detachments  
 Sponsor: Representative Davies  
 Requestor: \_\_\_\_\_ 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						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-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 significant impact on the Alaska State Troopers

Prepared By: Francis C. Allan Phone: 289-5691  
 Division: Alaska State Troopers Date: 01/24/95  
 Approved by Commissioner: *Ronald L. Otte* Date: 2/9/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# Alaska Fire Chief's Association

P.O. Box 8508 • Nikiski, Alaska 99635 • (907) 283-4202 • FAX 283-8404

Billy W. Harris  
President

TIMOTHY J. BIGGANE  
1st Vice President  
(907) 488-3400  
North Pole

## Resolution 95-04

MICHAEL G. MCGOWAN  
2nd Vice President  
(907) 474-7916  
Fairbanks

### THE ALASKA FIRE CHIEF'S ASSOCIATION SUPPORTS HOUSE BILL 10.

TERI CARTER  
Secretary / Treasurer  
(907) 283-4388  
Nikiski

**WHEREAS**, persons driving while intoxicated impact the emergency services by increasing call volumes which results in increased risk to responders and equipment, hence higher operating costs and;

DEWEY WHETSELL  
Director  
(907) 424-6117  
Cordova

**WHEREAS**, the Alaska Fire Chief's Association sees the general law abiding citizen paying for these costs and;

GREG BARCLAY  
Director  
(907) 262-4792  
Soldotna

**WHEREAS**, the Alaska Fire Chief's Association is dedicated to reducing loss of life and property,

MIKE HOLZMUELLER  
Director  
(907) 474-7721  
Fairbanks

**NOW THEREFORE BE IT RESOLVED THAT,**

**THE ALASKA FIRE CHIEF'S ASSOCIATION STRONGLY  
SUPPORTS THE PASSING OF HOUSE BILL 10.**

MIKE DOLPH  
Director  
(907) 486-8040  
Kodiak

**ADOPTED, THIS 20th DAY OF MARCH, 1995.**

JOHN P. KRILL  
Director  
(907) 373-8800  
Wasilla

*Billy W. Harris*

Billy W. Harris  
President, AFCA

ANDREW POSTISHBK  
Past President  
(907) 265-8794  
Wasilla

ATTEST: *Disanne Yarnall for Teri Carter*  
Secretary



217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325 Fax (907) 463-5480

March 16, 1995

TO: Representative John Davies

FROM: Kevin C. Ritchie  
*Kevin C. Ritchie*  
Executive Director

RE: House Bill 10 - Payment for emergency services responding to certain motor vehicle accidents

The Alaska Municipal League is writing in support of HB 10, which would require a person convicted of driving while intoxicated and contributes to an accident to pay the costs of any emergency services connected with that accident.

While we do not have a specific statement addressing this subject in our policy statement, municipalities support legislation that would encourage people to refrain from driving under the influence and putting innocent people in danger. If an unfortunate accident is the result of this type of behavior, we agree that the convicted person should pay the cost of emergency services.

If you have any questions, please feel free to call me at 586-1325.

**MADD**

Mothers Against Drunk Driving  
P. O. Box 71167 Fairbanks, AK 99701 (907) 456-3964

**DRUNK DRIVING IS NOT AN ACCIDENT, IT IS A VIOLENT CRIME.**

In 1993, 17,461 people were killed in the United States in alcohol-related traffic crashes. It is estimated that 950,000 people were injured in crashes where alcohol was present.

Direct costs of alcohol-related crashes are estimated to be \$44 billion yearly including \$6 billion in medical costs. An additional \$90 billion is lost in quality of life due to these crashes.

**THE MISSION OF MOTHERS AGAINST DRUNK DRIVING IS TO STOP DRUNK DRIVING AND TO SUPPORT VICTIMS OF THIS VIOLENT CRIME.**

Rep. John Davies  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182  
FAX (907) 465-3519

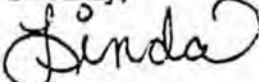
Re: HB No. 10

Dear Representative Davies,

The Fairbanks Chapter of Mothers Against Drunk Driving would like to voice it's support for HB No. 10. As I'm sure you're aware, the cost of drunk driving to the State is phenomenal. While one can never put a dollar amount on the loss of life or injury to a victim, drunk drivers must take responsibility for their actions. HB 10 will act as a deterrent to the potential drunk driver. We commend you for your efforts.

If I can provide you with further information, please contact me.

Sincerely,



Linda Ferree  
Chapter President

1993

Table 72  
Persons Killed or Injured in Alcohol-Related Crashes, by Person Type and Injury Severity

Person Type	Persons Killed	Persons Injured by Injury Severity			Total Injured
		Incapacitating	Nonincapacitating	Other	
<b>Vehicle Occupants</b>					
Driver	10,369	48,000	86,000	68,000	180,000
Passenger	3,994	23,000	28,000	44,000	95,000
Subtotal**	14,395	69,000	95,000	111,000	275,000
<b>Nonmotorists</b>					
Pedestrian	2,736	3,000	3,000	3,000	10,000
Pedalcyclist	298	1,000	2,000	1,000	3,000
Other	34	****	1,000	****	1,000
Subtotal	3,066	4,000	6,000	5,000	14,000
<b>Total***</b>	<b>17,461</b>	<b>73,000</b>	<b>100,000</b>	<b>116,000</b>	<b>289,000</b>

\* Blood alcohol concentration (BAC) of 0.01 grams per deciliter (g/dl) or greater in the crash.  
 \*\* Police-reported alcohol involvement in the crash.  
 \*\*\* Includes 32 unknown occupants that were killed.  
 \*\*\*\* Less than 500.

USA.

Total Fatalities = 40,115

Fatalities in Alcohol Related Crashes = 17,461

Percent = 43.5 %



U.S. Department  
of Transportation

**National Highway  
Traffic Safety  
Administration**

# **THE ECONOMIC COST OF MOTOR VEHICLE CRASHES 1990**

1. Report No. DOT HS 807 876		2. Government Accession No.		3. Recipient's Catalog No.	
4. Title and Subtitle  The Economic Cost of Motor Vehicle Crashes, 1990				5. Report Date September 1992	
				6. Performing Organization Code	
7. Author(s) Lawrence J. Blincoe and Barbara M. Faigin				8. Performing Organization Report No.	
9. Performing Organization Name and Address  Plans and Policy National Highway Traffic Safety Administration Washington, DC 20590				10. Work Unit No. (TRAIS)	
				11. Contract or Grant No.	
12. Sponsoring Agency Name and Address  U.S. Department of Transportation National Highway Traffic Safety Administration Washington, DC 20590				13. Type of Report and Period Covered  NHTSA Technical Report	
				14. Sponsoring Agency Code	
15. Supplementary Notes We acknowledge the assistance of Linda Burnett, Office of Plans and Policy, NHTSA; Judy Hilton and other staff, National Center for Statistics and Analysis, NHTSA; and Ted R. Miller of the Urban Institute.					
16. Abstract  This report presents the results of an analysis of total motor vehicle crash costs for 1990 and the costs of alcohol-related crashes. The total economic cost of motor vehicle crashes and injuries that occurred in 1990 was \$137.5 billion. This total represents the present value of lifetime costs for 44,531 fatalities, 5.4 million non-fatal injuries, and 28 million damaged vehicles, in both police reported and unreported crashes. Property damage costs of \$45.7 billion accounted for the largest share of total motor vehicle crash costs. Lifetime losses in marketplace production due to deaths and injuries of \$39.8 billion represented the second largest portion of total cost. Medical expenses were the third highest cost category, totaling \$13.9 billion. Each fatality resulted in a discounted lifetime economic cost of \$702,000. Alcohol-related crashes resulted in economic costs of \$46.1 billion, 33.5 percent of 1990 costs. Eighty-one percent of all alcohol-related costs occurred in crashes where a driver or pedestrian was legally impaired (> = .10% BAC).					
17. Key Words Economic costs Motor vehicle crashes Motor vehicle fatalities, injuries Alcohol			18. Distribution Statement  Document is available to the U.S. public through the National Technical Information Service, Springfield, VA 22161		
19. Security Classif. (of this report)		20. Security Classif. (of this page)		21. No. of Pages	22. Price

**HB**

**13**

*No problem*

CS FOR HOUSE BILL NO. 13(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 2/8/95

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES GREEN, Bunde

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring persons filing for nomination for, or campaigning for election  
2 for, state elective office, persons authorized to make or incur political campaign  
3 expenditures before formally filing for nomination to state elective office, and  
4 groups acting on behalf of any of these, to file certain election campaign finance  
5 disclosure reports."

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

7 \* Section 1. PURPOSE. It is the purpose of this Act to require that the campaign  
8 disclosure reporting requirements for the primary and general elections apply in the year of  
9 those elections to

10 (1) a person who, under the regulations adopted by the Alaska Public Offices  
11 Commission to implement AS 15.13.100, has filed a letter of intent to become a candidate for  
12 state elective office;

13 (2) a person who has filed a nominating petition to become a candidate at the

1 general election for state elective office;

2 (3) a person who campaigns as a write-in candidate for state elective office at  
3 the general election; and

4 (4) a group that receives contributions or makes expenditures on behalf of or  
5 in opposition to a person described in (1) - (3) of this section.

6 \* Sec. 2. AS 15.13.110 is amended by adding a new subsection to read:

7 (f) During the year in which the election is scheduled, each of the following  
8 shall file the campaign disclosure reports in the manner and at the times required by  
9 this section:

10 *Expenditures before filing*

11 (1) a person who, under the regulations adopted by the commission to  
12 implement AS 15.13.100, indicates an intention to become a candidate for elective  
state executive or legislative office;

13 (2) a person who has filed a nominating petition under AS 15.25.140 -  
14 15.25.200 to become a candidate at the general election for elective state executive or  
15 legislative office;

16 (3) a person who campaigns as a write-in candidate for elective state  
17 executive or legislative office at the general election; and

18 (4) a group that receives contributions or makes expenditures on behalf  
19 of or in opposition to a person described in (1) - (3) of this subsection.

20 \* Sec. 3. AS 15.13.125 is amended to read:

21 Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REQUIRED  
22 REPORTS. A person who fails to file a properly completed and certified report within  
23 the time required by AS 15.13.040(f), [OR] 15.13.110(a)(1), (3), or (4), or 15.13.110(f)  
24 is subject to a civil penalty of not more than \$10 a day for each day the delinquency  
25 continues as determined by the commission subject to right of appeal to the superior  
26 court. A person who fails to file a properly completed and certified report within the  
27 time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty of not  
28 more than \$50 a day for each day the delinquency continues as determined by the  
29 commission subject to right of appeal to the superior court. An affidavit stating facts  
30 in mitigation may be submitted to the commission by a person against whom a civil  
31 penalty is assessed. However, the imposition of the penalties prescribed in this section

1 or in AS 15.13.120 does not excuse that person from filing reports required by this  
2 chapter.

3 \* Sec. 4. APPLICATION. The provisions of AS 15.13.110(f)(1), added by sec. 2 of this  
4 Act, are intended to apply to a person who indicates an intention to become a candidate for  
5 elective state executive or legislative office under a letter of intent authorized by 2 AAC  
6 50.380 and who makes or incurs campaign expenditures by initiating early campaigning for  
7 the office.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. CSHB 13 (STA)

Revision Date: \_\_\_\_\_  
 Title: "An Act requiring persons authorized to make or incur political campaign expenditures . . ."  
 Sponsor: Rep. Green  
 Requestor: (H) JUD

Department Affected: Administration  
 BRU: Alaska Public Offices Commission  
 Component: Alaska Public Offices Commission  
 COMPONENT SERIAL NO. 70

**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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

There is no fiscal impact to the Alaska Public Offices Commission.

Prepared by: Karen Boorman, Director  
 Division: Alaska Public Offices Commission

Phone: 276-4176  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

*Alison H. Elger*  
 Date: 3/3/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Bill Version: CSHB 13 (STA)  
(H) Publish Date: 2/8/95

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act requiring persons authorized to make BRU: Alaska Public Offices Commission  
or incur political campaign expenditures . . ." Component: Alaska Public Offices Commission  
 Sponsor: Representative Green  
 Requestor: Representative Green COMPONENT SERIAL NO. 70

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES		9.0		9.0		9.0
TRAVEL						
CONTRACTUAL		0.3		0.3		0.3
SUPPLIES		0.1		0.1		0.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	9.4	0.0	9.4	0.0	9.4
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		9.4		9.4		9.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>Total</b>	0.0	9.4	0.0	9.4	0.0	9.4

Estimate of current year (FY95) cost: 50.0

**POSITIONS:**

FULL-TIME						
PART-TIME		1		1		1
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would require the filing of campaign disclosure reports by prospective municipal and state candidates (those who file letters of intent). It would result in the filing of an estimated 270 additional reports by 70 prospective candidates.

Costs involved in administering this change include: a six month part-time seasonal administrative clerk during election cycles to deal with the additional paper processing, mailings, and copy requests; postage, envelopes, and paper.

Prepared by: Karen Booman, Executive Director *K. Booman*  
 Division: Alaska Public Offices Commission

Phone: 907/276-4176  
 Date: \_\_\_\_\_

Approved by Commissioner: *M. Boyer*  
 Agency: Department of Administration

Date: 1/26/95

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B

HOUSE COMMITTEE REPORT

2/8/95

(7)  
Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee considered:

HB 13

HOUSE BILL NO. 13

CAMPAIGN DISCLOSURE REPORTS

"An Act requiring persons authorized to make or incur political campaign expenditures before filing for nomination to office and groups acting on behalf of them to file certain election campaign finance disclosure reports."

recommends it be replaced with the following committee substitute CSHB 13 (STA)  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) Admin

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Jeannette James</i>	JAMES	<input checked="" type="checkbox"/>			
<i>Brian S. Porter</i>	Porter	<input checked="" type="checkbox"/>			
<i>Joseph H. Green</i>	Green	<input checked="" type="checkbox"/>			
<i>Juan M. ...</i>	JUAN	<input checked="" type="checkbox"/>			
<i>Caren Robinson</i>	ROBINSON	<input checked="" type="checkbox"/>			
<i>Ed Willis</i>	Willis	<input checked="" type="checkbox"/>			
<i>Dale D. Ogan</i>	Ogan	<input checked="" type="checkbox"/>			
		(7)			

CHAIR'S SIGNATURE

*Jeannette James*  
James

**HB**

**15**

# FISCAL NOTE

NO. 1

Bill Version: HB 15

(H) Publish Date: 2/8/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

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

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**POSITIONS**

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.

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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# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

February 23, 1995

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX 110300  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3428  
FAX: (907) 465-4043

OFFICE OF SPECIAL PROSECUTIONS AND APPEALS  
310 K STREET, SUITE 308  
ANCHORAGE, ALASKA 99501-2064  
PHONE: (907) 269-6250  
FAX: (907) 269-6270

The Hon. Jim Duncan  
The Hon. Gene Therriault  
The Hon. Kay Brown  
The Hon. Pete Kott  
The Hon. Joe Green  
Alaska State Legislature  
P.O. Box V, State Capitol  
Juneau, AK 99801-1182

*HB 128  
Mandatory  
juv. waiver  
release to  
schools*

Dear Representatives & Senator:

Several bills have been introduced this session relating to the disclosure of information about juveniles. It appears that these bills may have been requested by schools that have experienced difficulties in the past when trying to obtain information from the state and law enforcement agencies about potentially dangerous students.

The Departments of Law, Public Safety, and Health & Social Services learned about these problems last year and spent several months analyzing what changes in the law could be made to remedy the situation. At the same time, these departments were working with the legislature on the various "juvenile waiver" bills. Ultimately, these departments were able to persuade the legislature to include in SB 54, the juvenile waiver bill that passed, extensive amendments to the public disclosure laws relating to juveniles.

AS 47.10.090 used to be the only statute governing the disclosure of information about juveniles. It was a confusing statute because part of it discussed the disclosure of court records and part of it addressed the disclosure of other records held by the executive branch. SB 54 amended AS 47.10.090 so that it addressed the release of court records only. SB 54 then created a new statute, AS 47.10.093, to address the release of information held by other government agencies, including law enforcement agencies. This new statute, for the first time, specifically authorized disclosures about juveniles to be made to schools by Health & Social Services and by police departments. Various other disclosures are also allowed under AS 47.10.093.

February 23, 1995

Page 2


AS 47.10.093 became effective five months ago in September 1994. Health & Social Services is just now in the process of amending its regulations relating to the disclosure of information about juveniles. This project should be completed in the near future. In the meantime, it appears that many schools and communities have not been advised about the changes in these law that allow more information to be disclosed about juveniles. We believe that SB 54 probably resolved most of the frustrations experienced by schools and members of the public in this area. We further believe that it makes sense to give these new amendments a chance to work before further amending the statutes. For additional information, please review the attached memorandum discussing in more detail the bills that have been introduced this session.

This letter is to ask you to share this information with your constituents and see if last year's legislative work answers their concerns in this area of the law. If we can provide any assistance to you, please do not hesitate to contact us.

Very Truly Yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:

  
Laurie H. Otto  
Deputy Attorney General

LHO:jf

cc: The Hon. Cynthia Toohey, Co-Chair  
The Hon. Con Bunde, Co-Chair  
House Health, Education & Social Services Committee

The Hon. Brian Porter, Chair  
House Judiciary Committee

The Hon. Lyda Green, Chair  
Senate Health, Education & Social Services Committee

# MEMORANDUM

State of Alaska

Department of Law

TO: Laurie Otto  
Deputy Attorney General

DATE: February 23, 1995

FILE NO.:

TEL. NO.: 465-3428

SUBJECT: Bills addressing disclosure  
of juvenile records

FROM: Margot Knuth *MK*  
Assistant Attorney General  
Criminal Division Central Office

Four bills have been introduced this session that amend AS 47.10.090 and/or 47.10.093, relating to the disclosure of juvenile records. Two of these bills (HB 15; HB 104) would jeopardize federal funds received from Social Security ("IV-E funds"), which approximate \$6 million annually. The other two (HB 125; SB 29) place restrictions on discretion granted by the legislature to the executive branch last year in SB 54.

The two bills that jeopardize IV-E funds are Rep. Therriault's HB 15 and Rep. Kott's HB 104. HB 15 amends AS 47.10.090(d) to essentially restore AS 47.10.090(b), which was repealed by SB 54 last year because of the federal funding problem. Old AS 47.10.090(b) allowed the court to publish the name of a minor found for the second time to have violated a law that would be a felony if committed by an adult unless the court for good cause entered an order prohibiting the disclosure in certain individual cases. HB 15 allows this same disclosure, plus the disclosure of the minor's photograph.

On September 19, 1994, Rep. Therriault wrote a letter to Deborah Wing of the DFYS of H&SS, explaining his desire to restore the repealed disclosure provision of AS 47.10.090(b). He included a memorandum from Jack Chenoweth, concluding that it was probably okay to do this.

On November 14, 1994, Ms. Wing responded to Rep. Therriault, enclosing a written opinion from Region X, Dept. of Health & Human Services, stating that the categorical release of this type of information is prohibited under section 471(a)(8) of the Social Security Act. On February 1, 1995, an informal memorandum was sent to Kathy Tibbles, acting Director of DFYS, relating additional information from Region X of the Federal Department of Health & Human Services. Copies of these materials are attached to this memorandum.

HB 104 amends AS 47.10.093(b) to authorize a governmental employee to disclose the name and address of a minor 14 years of age or older at the time of adjudication of an offense that would be a felony if committed by an adult. This is the same type of information discussed above and its disclosure would jeopardize the state's receipt of federal funds.

HB 104 also requires agencies to make disclosures to schools, similar to the provisions of HB 125 and SB 29. Representative Green's HB 125 requires the court to notify an adjudicated minor's school if the minor's offense was committed on the school's property or if the offense would be a felony under AS 11.41, AS 11.46, of AS 11.71 or if the offense involved the use or possession of a deadly weapon. For these same offenses, law enforcement agencies must provide schools with information about the incident. HB 125, however, also includes a provision that disclosure is not required if the law enforcement agency determines that notice would jeopardize an ongoing investigation; it also places limits on further dissemination of the information by a school's principal. \* CS HB 125 → mandatory

Senator Duncan's SB 29 requires law enforcement agencies to notify a school about an incident involving a minor if the victim was a student or staff member of the school or if the offense was one identified in Green's bill (felony AS 11.41, AS 11.46, AS 11.71 or any crime involving a deadly weapon). This bill also includes a provision that disclosure is not required if the law enforcement agency determines that notice would jeopardize an ongoing investigation and places limits on further dissemination of the information by a school's principal.

HB 104 requires a law enforcement agency to notify a principal about an incident whenever the minor's conduct would constitute a crime against a person under AS 11.41 if committed as an adult (whether it would be a felony or not). The Sponsor Substitute for HB 104 now contains a provision similar to the one found in HB 125 and SB 29 that authorizes the nondisclosure of information that would interfere with an ongoing police investigation.

AS 47.10.093 was enacted last year. Section (b)(3) authorizes state or municipal agencies to disclose information regarding a case to "school officials as may be necessary to protect the safety of school students and staff." Law enforcement agencies are similarly authorized in section (c)(3) to disclose to school officials "information regarding a case as may be necessary to protect the safety of school students and staff."

The obvious difference between these provisions and the bills that have been introduced this year is that existing law grants the government discretion in deciding whether and what information to provide to schools, while the bills mandate disclosure. I am not aware of any claims that agencies have abused their discretion and refused to make disclosures to schools that schools wanted made. To the best of my knowledge, the perceived problem is simply due to a lag in public knowledge about SB 54, which only became effective five months ago (September 1, 1994).

Existing law  
discretion  
disclosure  
New Bills  
Mandatory  
disclosure

The disclosure provisions of SB 54 were studied for months by the Department of Law and other departments in the executive branch. Task force meetings were held in Juneau and in Anchorage, with representatives from the civil and criminal divisions of Law, H&SS, DPS, Corrections, parents' groups, victims' groups, and municipal police agencies. The

Laurie Otto  
Deputy Attorney General

February 23, 1995  
Page 3

disclosure provisions adopted by the legislature in SB 54 were virtually identical to the ones drafted by the state task force. Those who are familiar with the provisions feel comfortable that they grant the latitude the police and schools have wanted to disseminate information about dangerous juveniles. Unless and until there is a specific problem with these provisions, we recommend that AS 47.10.090 and 47.10.093 not be amended.

MK:jf

*Sorry about that!*

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 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 Theriault  
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

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) 455-3170

November 14, 1994

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

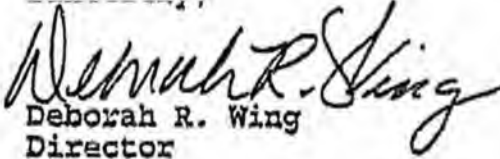
Dear Representative Therriault:

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

HOUSE BILL NO. 15

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES THERRIAULT, Rokeberg, Bunde, Toohey

Introduced: 1/16/95

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

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

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

5 \* Section 1. AS 47.10.090(d) is amended to read:

6 (d) The name or picture of a minor under the jurisdiction of the court may not  
7 be made public in connection with the minor's status as

8 (1) [A DELINQUENT CHILD OR] a child in need of aid unless  
9 authorized by order of the court; or

10 (2) a delinquent minor unless authorized by order of the court;  
11 however, unless the court, at the time of the filing of a delinquency petition  
12 under AS 47.10.020(a)(2), for good cause shown in certain individual cases, enters  
13 an order prohibiting the disclosure, the name and address, a picture of the minor,  
14 if available, and the criminal law that the minor is accused of violating shall be

*no body looks at it at the time of filing it*

*at*  
*arrange*  
*next*

Kathy,

*Overbeck, III-E expert  
in Region II*

I talked with Carol about HB 15. She said that she could not get any verbal input from D.C. because requests for opinions are dealt with in the order that they come in, so she does not know who will handle her request.

Carol said that her November 9 letter applies to this bill. The problem with the bill is that not only would both the name and picture of the child be released, but because it would be released only at a second offense, additional protected information would be released when the name and picture is released - i.e. the information that the child has committed an offense previously. This bill would jeopardize both IV-E and IV-B money, since IV-B would apply to children who are not IV-E eligible. (An issue is how early information would be released. If it is released before a child welfare record is opened, supporters of the bill could argue that IV-E/IV-B confidentiality rules would not apply. However, Carol would not put this in writing.)

Carol told me that she returned a call to Patricia Young, Legislative research. Patricia had three questions which Carol answered (Carol's answers are in *italics*):

1. Why would IV-E/IV-B funding be jeopardized if it is the court which authorizes release of information, and not the Department? *Carol: the agency is penalized even if the court authorizes the release, because it is the state, not only the Department that has to comply with the IV-E/IV-B requirements.*
2. In last years statute amendments court and agency records were split up. Would that not solve the problem? *Carol: no, because IV-E/IV-B requirements apply to both agency and court records.*
3. Why did Alaska get away with the statute the way it was from 1975-1994? *Carol: Because the feds didn't know that the statute read that way.*

Gudrun, 2-1-95

*cc Mango Knuth  
Martha Holmberg*

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# CORRECTION

THE FOLLOWING DOCUMENT(S)  
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Central Microfilm Services  
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State of Alaska

HOUSE BILL NO. 15

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES THERRIAULT, Rokeberg, Bunde, Toohy

Introduced: 1/16/95

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

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10 (2) a delinquent minor unless authorized by order of the court;  
11 however, unless the court, at the time of the filing of a delinquency petition  
12 under AS 47.10.020(a)(2), for good cause shown in certain individual cases, enters  
13 an order prohibiting the disclosure, the name and address, a picture of the minor,  
14 if available, and the criminal law that the minor is accused of violating shall be *the same of filing*

*at arraignment*

1  
2  
3  
4  
5  
6  
7  
8

made public if

(A) a delinquency petition is filed under AS 47.10.020(a)(2)

for the minor;

(B) the minor has been previously adjudicated a delinquent;

and

(C) 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.

Kathy,

*Overbeck, IV-E expert  
in Region I*

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Gudrun, 2-1-95

*cc Mango Knuth  
Martha Holmberg*

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Dept.	Phone # <i>3191</i>	
Fax # <i>4043</i>	Fax # <i>8397</i>	



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:

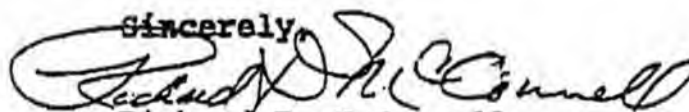
This is to respond to your request for our opinion on potential legislation to release information about juvenile offenders to the public, particularly information from Title IV-B and IV-E case files. Federal regulations require that these files are to be kept confidential and the information only used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

# Alaska State Legislature

REPRESENTATIVE  
GENE THERRIALT

P.O. Box 55326

North Pole, Alaska 99705

(907) 486-0862

House District 33



While in Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-4797

## 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.

HOUSE COMMITTEE REPORT

2/8/95

(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 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)  
(8) [x] fiscal note(s) H+SS [ ] fiscal note(s) \_\_\_\_\_

[x] zero fiscal note(s) Law [ ] zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i> Rokeberg			✓	
<i>[Signature]</i> G. Davis			✓	
<i>[Signature]</i> Bunde	✓			
<i>[Signature]</i> Toohay	✓			
<i>[Signature]</i> Robinson		✓		
<i>[Signature]</i> Brice			✓	
	(2)	(1)	(3)	

CO-CHAIR'S SIGNATURE

*[Signature]*  
Bunde

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 9  
Bill Version: HB 15  
(H) Publish Date: 2/8/95

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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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  
Agency: Department of Health & Social Services

Date: 2/7/95

COMMITTEE COPY

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 8  
Bill Version: HB 15  
(H) Publish Date: 2/8/95

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: 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(1,018.8)	(1,018.8)	(1,018.8)	(1,018.8)	(1,018.8)	(1,018.8)
1003 GF Match	(1,018.8)	(1,018.8)	(1,018.8)	(1,018.8)	(1,018.8)	(1,018.8)
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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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*  
Division: Family & Youth Services  
Approved by Commissioner: *Karen Perdue*  
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

No. 7  
Bill Version: HB 15  
(H) Publish Date: 2/8/95

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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(588.0)	(588.0)	(588.0)	(588.0)	(588.0)	(588.0)
1003 GF Match	(584.4)	(584.4)	(584.4)	(584.4)	(584.4)	(584.4)
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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

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

Date: 2/2/95

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STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 6  
Bill Version: HB 15  
(H) Publish Date: 2/8/95

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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
CHANGES IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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						
1008 GF/MHTIA						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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 \$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

COMMITTEE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 5  
Bill Version: HB 15  
(H) Publish Date: 2/8/95

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. 1623

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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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						
1008 GF/MHTIA						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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  
Department of Health & Social Services

Date: 2/7/95

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STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 4  
Bill Version: HB 15  
(H) Publish Date: 2/8/95

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
Title: Authorizing disclosure from court records of the Name, BRU: Family and Youth Services  
Address & Picture of, and other information about certain minors Component: Northern Region  
Sponsor: Therriault COMPONENT SERIAL NO. 255  
Requestor: House (HES) 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
CHANGES IN REVENUES						

**FUND SOURCE** (Thousands of Dollars)

	FY96	FY97	FY98	FY99	FY00	FY01
1002 Federal Receipts	(499.2)	(499.2)	(499.2)	(499.2)	(499.2)	(499.2)
1003 GF Match	(818.5)	(818.5)	(818.5)	(818.5)	(818.5)	(818.5)
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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**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 Phone: 465-3191  
Division: Family & Youth Services Date: 02/06/95  
Approved by Commissioner: Karen Perdue, Commissioner Date: 2/7/95  
Agency: Department of Health & Social Services

**COMMITTEE COPY**

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 3  
Bill Version: HB 15  
(H) Publish Date: 2/8/95

Revision Date: \_\_\_\_\_  
Title: Authorizing disclosure from court records of the Name,  
Address & Picture of, and other information about certain minors  
Sponsor: Tberriault  
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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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  
Agency: Department of Health & Social Services

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

COMMITTEE COPY

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 2  
Bill Version: HB 15  
(H) Publish Date: 2/8/95

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
Title: Authorizing disclosure from court records of the Name. BRU: Family and Youth Services  
Address & Picture of, and other information about certain minors \_\_\_\_\_ Component: Southeastern Region  
Sponsor: Therriault COMPONENT SERIAL NO. 258  
Requestor: House (HES) 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts	(283.0)	(283.0)	(283.0)	(283.0)	(283.0)	(283.0)
1003 GF Match	(328.3)	(328.3)	(328.3)	(328.3)	(328.3)	(328.3)
1004 GF	809.3	809.3	809.3	809.3	809.3	809.3
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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 \$6,036.7. 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: 2/9/95

COMMITTEE COPY

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 # 465-4271	Fax # 465-2029	

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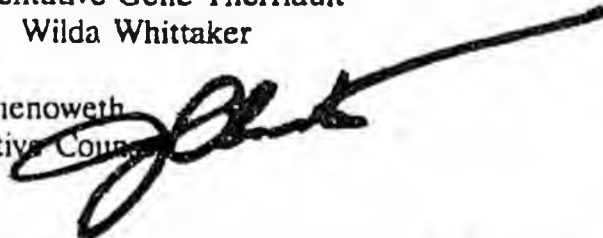
**MEMORANDUM**

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

DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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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-LS0077\C)

**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 " provides continuing protection of the confidentiality of program-related

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,

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.<sup>2</sup>

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

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(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

<sup>2</sup> 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 revision 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."

*Petition comes from DFYS*

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.

*I think it probably holds. depends on where the other source got the info*

*I think it holds - courts & everyone else*

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  
ASSISTANCE<sup>122</sup>

PURPOSE: APPROPRIATION<sup>123</sup>

SEC. 470. [ 42 U.S.C. 670 ] For the purpose of enabling each State to 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, a plan under this part.

STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

<sup>122</sup> See Vol. II, P.L. 98-177, §256, with respect to treatment of foster care and adoption assistance.

<sup>123</sup> See 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)<sup>124</sup> 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,<sup>125</sup> (D) any audit or similar activity conducted in connection with

<sup>124</sup> P.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).

<sup>125</sup> P.L. 101-508, §451(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 neglect<sup>106</sup>; 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;<sup>107</sup>

(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;

(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; and<sup>108</sup>

(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 PROGRAM<sup>107</sup>

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

<sup>106</sup>See 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.

<sup>107</sup>See 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.

<sup>106</sup>P.L. 101-504, §701(b)(2)(B), added "and" and subparagraph (E), applicable to benefits for months beginning on or after May 1, 1991.

<sup>107</sup>P.L. 101-504, §701(b)(2)(B), amended paragraph (1) in its entirety, applicable to benefits for months beginning on or after May 1, 1991. Until then, paragraph (1) read as follows:

"(1) 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."

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(n), 210(f), or 210A(d)(7) of the Immigration and Nationality Act<sup>33</sup> 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 State Legislature

REPRESENTATIVE  
GENE THERRIAULT

Member & Press  
1000  
2000  
3000  
4000  
5000  
6000  
7000  
8000  
9000  
10000



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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

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### 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.

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 24 020 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 71 030(a)(1) or 11 71 030(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 30 901, 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 aid 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 in 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*, 645 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. (§ 10C(4) mt l ch 145 SLA 1957; am § 1 ch 124 SLA 1972; am § 1 ch

90 SLA 1976; am § 20 ch 63 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 1976).

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 1976).

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 1976).

Confidentiality policy. The policy

of confidentiality in Child in Need of Aid proceedings is not absolute. The court has discretion to disclose records in CHNA proceedings under subsection (a). *Clifton v State*, 768 P 2d 1279 (Alaska Ct. App. 1989).

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 615 (Alaska 1990).

Quoted in *Sledge v State*, 763 P 2d 1364 (Alaska Ct. App. 1989).

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

Cited in *M O W v State*, 645 P 2d 1229 (Alaska Ct. App. 1982); *State v. H.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).

DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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

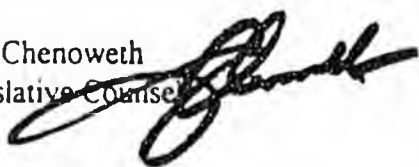
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

MEMORANDUM

January 19, 1995

**SUBJECT:** House Bill 15: sectional analysis (Work Order No. 9-LS0077C)

**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

# Alaska State Legislature

REPRESENTATIVE  
GENE THERRIAULT

Mailing Address  
11001 Cushman, Suite 101  
Fairbanks, Alaska 99701  
907) 488-0862  
Fax: (907) 488-4271



## House Of Representatives

Write in Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-4797  
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,

A handwritten signature in cursive script, appearing to read "Gene Therriault".  
Gene Therriault  
Representative

CORRESPONDENCE FROM

DFYS & LEGAL SERVICES

FEDERAL PAYMENTS FOR FOSTER CARE & ADOPTION ASSISTANCE



## ALASKA COUNCIL OF SCHOOL ADMINISTRATORS

326 Fourth St., Suite 404 Juneau, AK 99801-1101 • (907) 586-9702 • (800) 478-9702 • FAX (907) 586-5879

### 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

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 15

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: Disclosure of juvenile records BRU: Trial Courts  
 Components: \_\_\_\_\_  
 Sponsor: Rep. Therriault  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

**EXPENDITURES/REVENUES** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	157.1	157.1	157.1	157.1	157.1	157.1
TRAVEL						
CONTRACTUAL						
SUPPLIES	1.5	1.5	1.5	1.5	1.5	1.5
EQUIPMENT	4.2					
LAND & STRUCTURES						
GRANTS & CLAIMS						
<b>TOTAL OPERATING</b>	<b>162.8</b>	<b>158.6</b>	<b>158.6</b>	<b>158.6</b>	<b>158.6</b>	<b>158.6</b>
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	162.8	158.6	158.6	158.6	158.6	158.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>162.8</b>	<b>158.6</b>	<b>158.6</b>	<b>158.6</b>	<b>158.6</b>	<b>158.6</b>

**POSITIONS**

FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

**ANALYSIS:** (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *[Signature]* Phone: 264-8228  
 Agency: Alaska Court System Date: 03/08/95

Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]* Date: 03/08/95  
 Agency: Alaska Court System

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Alaska Court System  
Fiscal Analysis  
HB 15

HB 15 provides that if a delinquency petition is filed against a minor for violating a criminal law that would be a felony if committed by an adult, and the minor had previously been adjudicated delinquent for a crime that would have been a felony if committed by an adult, then the minor's name, address, picture, and the criminal law that the minor is accused of violating shall be made public. A court would have the authority to keep individual records confidential for good cause shown.

In FY 94, delinquency petitions were submitted to the courts for 65 juveniles whose records would be subject to disclosure by HB 15. This is out of juvenile population (age 9 to age 18) of approximately 75,000; this latter number, along with scores of thousands of young adults, is the potential group about which records requests could be made by potential employers, landlords, credit bureaus, neighbors, teachers, etc. Court records are not computerized or centralized. Accordingly, HB 15 would require the clerk to compile the information by means of an index search and case file review each time a request was made about a particular minor. Because most of a minor's file would remain confidential, the clerk could not have the requestor perform the index search and file review as is done with adult records. Moreover, the clerk would only have available information from cases that were filed in that community. A complete records review would require the clerk to contact all 14 juvenile court locations to determine if a juvenile had a prior record, and would thus require court clerks to expend the identical effort fourteen times.

Statewide, courts receive over 3500 written requests per year for adult criminal records information, from individuals and entities that are located in a different community than the courthouse. Far more individuals and businesses perform adult criminal records research in person at courthouses. In Anchorage alone, for example, approximately 75 people per day request adult files to review for criminal records; these 75 individuals look through an estimated 500 files per day. It can be assumed that the number of requests for juvenile records will likewise be substantial, once they are made accessible. Unfortunately, it is the court clerks who will be required to look through these records to extract the limited information which HB 15 makes public.

Because HB 15 allows a judge to prohibit disclosure for good cause in individual cases, it must be assumed that a request for nondisclosure will be made each time a second felony delinquency petition is filed, and this will take 15 minutes to dispose of at the arraignment. This note does not add costs for this additional judicial time.

Note that at the present time, the trial rate for juveniles is a small fraction of the trial rate for adults. For example, in Fairbanks until recently there had been no juvenile jury trials for a period of ten years. The reason that juveniles do not demand trials at the same rate as adult defendants is that the consequences of a juvenile adjudication are much less than the consequences of an adult conviction. HB 15 increases the consequences of a felony adjudication, and thus increases the likelihood that more juvenile defendants will demand a trial. Because this increase in the trial rate is speculative, this note does not reflect these costs.

Alaska Court SystemFiscal AnalysisHB 15Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Legal Technician, range 12A, PFT, Anchorage	\$27,108	\$12,230	\$39,338
Legal Technician, range 12A, PFT, Anchorage	27,108	\$12,230	39,338
Legal Technician, range 12A, FFT, Fairbanks	30,780	13,196	43,976
Overtime for other courts at range 12A			<u>34,400</u>
			Total Personal Services
			157,052

The additional time for judicial review of the nondisclosure requests will not have a significant impact on staffing.

Supplies

Office supplies for new positions	1,500
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Equipment (one-time item)

Desk, chair, computer terminal, etc for new positions	<u>4,200</u>
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Estimated Total Cost	<u><u>\$162,752</u></u>
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**HB**

**18**

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 18

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act amending the statute of limitations appli- BRU: Legal Services  
able to civil actions brought against peace officers and coroners." 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**POSITIONS**

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 amends AS 09.10 to reduce the time in which a civil action may be brought against a peace officer or coroner, from three years to two years, for a liability incurred by the doing of an act in an official capacity or by the omission of an official duty. This change in the statute of limitations for peace officers and coroners is consistent with the general statute of limitations of two years for most other persons. The bill will not have a fiscal impact.

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: 1/30/95  
 Date: 1/30/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 18

Revision Date: \_\_\_\_\_  
Title: "An Act Amending the Statute of Limitations Applicable to Civil Actions Brought Against Peace Officers..."  
Sponsor: Therriault  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: Risk Management  
Component: Risk Management  
COMPONENT SERIAL NO. 71

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
-------------------------------	----------	----------	----------	----------	----------	----------

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

There is no fiscal impact to the Division of Risk Management.

Prepared by: Brad Thompson  
Division: Risk Management

Phone: 465-2180  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 1/30/95

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of the improvement, a person may bring a negligence action to recover damages if the negligence action is brought within one year after the date on which the personal injury, death, or property damage occurs.

(c) This section does not apply

(1) to an action against a person who was in actual possession and lawful control of the improvement at the time the defect caused the personal injury, death, or property damage;

(2) if the personal injury, death, or property damage was caused intentionally or resulted from gross negligence, fraud, fraudulent concealment, fraudulent misrepresentation, or breach of an express warranty or guarantee; or

(3) if a longer period of time for bringing the action was provided under a contract.

(d) In this section, "substantial completion" means the date when construction is sufficiently completed to allow the owner or a person authorized by the owner to occupy the improvement or use the improvement in the manner for which it was intended. (§ 2 ch 61 SLA 1967; am § 3 ch 28 SLA 1994)

**Cross references.** — For legislative findings in connection with the 1994 amendment of this section, and for applicability of those amendments, see §§ 1 and 4, ch. 28, SLA 1994 in the Temporary and Special Acts.

**Effect of amendments.** — The 1994 amendment, effective August 5, 1994, rewrote this section.

#### NOTES TO DECISIONS

**Constitutionality.** — Section violates equal protection clause of Alaska Constitution because it bears no substantial relationship between exempting design professionals from liability, shifting liability for defective design and construction to

owners and material suppliers, and the goal of encouraging construction. *Turner Constr. Co. v. Scales*, 752 P.2d 467 (Alaska 1988) (decided prior to the 1994 amendment).

**Collateral references.** — What statute of limitations governs action by contractor for defective or improper performance of work by private building contractor, 1 ALR3d 914.

When statute of limitations begins to run on negligent design claim against architect, 90 ALR3d 507.

Validity and construction, as to claim alleging design defects, of statute impos-

ing time limitations upon action against architect or engineer for injury or death arising out of defective or unsafe condition of improvement to real property, 93 ALR3d 1242.

**Statutes of limitation** — actions by purchasers or contractees against vendors or contractors involving defects in houses or other buildings caused by soil instability, 12 ALR4th 866.

**Sec. 09.10.060. Actions against peace officers or coroners, for certain statutory penalties, or for sexual abuse to be brought in three years.** (a) A person may not bring an action against a peace officer or coroner upon a liability incurred by the doing of an act in an official capacity or by the omission of an official duty, including the

nonpayment of money collected upon an execution, unless the action is brought within three years. This section does not apply to an action for an escape.

(b) A person may not bring an action upon a statute for penalty or forfeiture where the action is given to the party aggrieved or to that party and the state unless the action is brought within three years, except where the statute imposing it prescribes a different limitation.

(c) A person who was the victim of sexual abuse may not maintain an action for recovery of damages against the perpetrator of the act or acts of sexual abuse based on the perpetrator's intentional conduct for an injury or condition suffered as a result of the sexual abuse unless the action is commenced within three years. In this subsection, "sexual abuse" means an act committed by the defendant against the plaintiff maintaining the cause of action if the defendant's conduct would have violated a provision of AS 11.41.410 — 11.41.440 or 11.41.450 — 11.41.455 at the time it was committed. (§ 1.06 ch 101 SLA 1962; am § 1 ch 4 SLA 1990)

**Revisor's notes.** — In 1994, "A person may not" was substituted for "No person may" in (a) and (b) of this section, and "the action is" was inserted after "unless" in (a), (b), and (c) of this section to conform this section to the current style of the Alaska Statutes.

**Cross references.** — For provisions related to (c) of this section, see AS 09.10.140(b).

**Effect of amendments.** — The 1990 amendment, effective February 2, 1990, added subsection (c).

#### NOTES TO DECISIONS

**Abuse of process and false imprisonment.** — In the case of a complaint against city police officers for abuse of process, false arrest (imprisonment) and a violation of civil rights under 42 U.S.C. § 1983, this section applied to the actions for abuse of process and false arrest (im-

prisonment), and AS 09.10.070 applied to the action for an alleged civil rights violation. *Jenkins v. Daniels*, 751 P.2d 19 (Alaska 1988).

Cited in *Farmer v. State*, 788 P.2d 43 (Alaska 1990).

**Collateral references.** — Running of limitations against action for civil damages for sexual abuse of child, 9 ALR5th 321.

**Sec. 09.10.070. Actions for torts and certain statutory liabilities to be brought in two years.** A person may not bring an action (1) for libel, slander, assault, battery, seduction, false imprisonment, or for any injury to the person or rights of another not arising on contract and not specifically provided otherwise; (2) upon a statute for a forfeiture or penalty to the state; or (3) upon a liability created by statute, other than a penalty or forfeiture; unless the action is commenced within two years. (§ 1.07 ch 101 SLA 1962)

Revisor's notes. — In 1994, "A person may not" was substituted for "No person may" and "the action is" was inserted after "unless" to conform this section to the current style of the Alaska Statutes.

Opinions of attorney general. — Revocation proceedings against a commercial fisheries permit holder, who allegedly submitted false information with respect

to his residency in his initial application for an entry permit and in his requests for renewal of the permit, were governed by the six-year period set forth in AS 09.10.120 (actions by state or political subdivision), not the two-year statute of limitation found in AS 09.10.070(2) (forfeiture or penalty). Aug. 17, 1984, Op. Att'y Gen.

### NOTES TO DECISIONS

- I. General Consideration.
- II. Torts.
  - A. Generally.
  - B. Strict Liability.
  - C. Misrepresentation and Negligence.
  - D. Libel.
- III. Forfeiture or Penalty to State.
- IV. Other Statutory Liability.
- V. Procedure.
  - A. Generally.
  - B. Tolling Statute.

#### I. GENERAL CONSIDERATION.

The policy of the law is to allow a reasonable but definitely limited time for the bringing of an action after which the matter is put to rest. *Byrne v. Ogle*, 488 P.2d 716 (Alaska 1971).

Purpose of statute of limitations. — The goal of the statute of limitations and the substituted service procedure is to provide speedy adjudication of claims. *Byrne v. Ogle*, 488 P.2d 716 (Alaska 1971).

The purpose of statutes of limitations is to encourage promptness in the prosecution of actions and thus avoid the injustice which may result from the prosecution of stale claims. *Byrne v. Ogle*, 488 P.2d 716 (Alaska 1971); *McCracken v. Davis*, 560 P.2d 771 (Alaska 1977); *Johnson v. City of Fairbanks*, 583 P.2d 181 (Alaska 1978).

Statutes of limitations attempt to protect against the difficulties caused by lost evidence, faded memories and disappearing witnesses. *McCracken v. Davis*, 560 P.2d 771 (Alaska 1977).

This section reflects a state policy that a plaintiff's commencement of action is the affirmative step necessary to assure that his assertion of a claim is timely. *Johnson v. City of Fairbanks*, 583 P.2d 181 (Alaska 1978); *DeHusson v. City of Anchorage*, 583 P.2d 791 (Alaska 1978).

This section and AS 09.55.580 compared. — See *Hankanson v. Wakefield Seafoods, Inc.*, 600 P.2d 1087 (Alaska 1979).

Action for interference with contract rights. — Alleged acts of interference with contract rights were one-time occurrence, even though they might have continuing consequences; in determining the time from which the period of limitations is measured, such acts were not analogous to a continuing trespass or nuisance, where repeated and continued tortious acts are committed. *Blake v. Gilbert*, 702 P.2d 631 (Alaska 1985), overruled on other grounds, *Bibo v. Jeffrey's Restaurant*, 770 P.2d 290 (Alaska 1989).

Suit for breach of implied duty in construction contract. — This section was applicable to a suit against an electrical contractor alleging breach of an implied duty to perform a restaurant construction contract in a workmanlike manner. *St. Paul Fire & Marine Ins. Co. v. Sauer Elec., Inc.*, 648 F. Supp. 959 (D. Alaska 1986).

Actions for breach of a fiduciary duty arising out of professional service relationships which primarily involve economic injury, because the duty allegedly breached does in part arise from the contract, are governed by AS 09.10.050 and not this section. *Lee Houston & Assocs. v. Racine*, 806 P.2d 848 (Alaska 1991).

Action under federal Civil Rights Act. — Statute of limitations for a civil rights action by a state employee challenging his discharge is two years, since, if *Wilson v. Garcia*, 471 U.S. 261, 105 S. Ct. 1938, 85 L. Ed. 2d 254 (1985), is ap-

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# Alaska State Legislature

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GENE THERRIAULT

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House District 33

## House Of Representatives

**HB 18:** "An act amending the statute of limitations applicable to civil actions brought against peace officers and coroners."

**Sponsor:** Representative Gene Therriault

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### Sponsor Statement:

This legislation is intended to bring the statute of limitations for civil actions brought against peace officers and coroners into conformity with the statute of limitations for general civil actions. It proposes to reduce from three years to two the period in which civil actions may be brought against peace officers and coroners based on an act performed in an official capacity or based on failure to perform an official duty.

The three year statute relating to peace officers was enacted for Alaska by Congress in 1900. Congress took the statutes from Oregon, which in turn took them from New York. New York's peace officer statute was enacted in 1829. Its purpose was to benefit peace officers by providing a period of limitations shorter than the general statute, which was six years. In the intervening years, however, the statute of limitations for general tort claims has been reduced to two years, with no corresponding change in the peace officer statute. Thus what started as a protective measure for police officers is no longer serving that purpose. This legislation would serve a twofold purpose of affording police officers the same protection as is provided to the general public and bringing an antiquated statute into conformity with more recent law.

The statute of limitations would remain three years for civil actions currently in progress.

DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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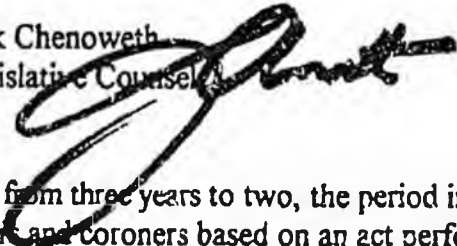
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

January 19, 1995

**SUBJECT:** House Bill 18: sectional analysis (Work Order No. 9-LS0100\A)

**TO:** Representative Gene Theriault  
ATTN: Wilda Whittaker

**FROM:** Jack Chenoweth  
Legislative Counsel 

The bill proposes to reduce, from three years to two, the period in which civil actions may be brought against peace officers and coroners based on an act performed in an official capacity or based on failure to perform an official duty.

Bill section 1 sets the statute of limitation for these civil actions at two years.

Bill section 2 repeals the current three-year statute of limitations for those actions.

Bill section 3 makes the two-year limitation applicable to actions commenced on or after the bill's effective date. Until the bill becomes law, as to civil actions in progress, the statute of limitations for these civil actions would remain three years under current law.

JBC:lmb  
95-072.lmb

SECTIONAL ANALYSIS

of the improvement, a person may bring a negligence action to recover damages if the negligence action is brought within one year after the date on which the personal injury, death, or property damage occurs.

(c) This section does not apply

(1) to an action against a person who was in actual possession and lawful control of the improvement at the time the defect caused the personal injury, death, or property damage;

(2) if the personal injury, death, or property damage was caused intentionally or resulted from gross negligence, fraud, fraudulent concealment, fraudulent misrepresentation, or breach of an express warranty or guarantee; or

(3) if a longer period of time for bringing the action was provided under a contract.

(d) In this section, "substantial completion" means the date when construction is sufficiently completed to allow the owner or a person authorized by the owner to occupy the improvement or use the improvement in the manner for which it was intended. (§ 2 ch 61 SLA 1967; am § 3 ch 28 SLA 1994)

**Cross references.** — For legislative findings in connection with the 1994 amendment of this section, and for applicability of those amendments, see §§ 1 and 4, ch. 28, SLA 1994 in the Temporary and Special Acts.

**Effect of amendments.** — The 1994 amendment, effective August 5, 1994, re-wrote this section.

**NOTES TO DECISIONS**

**Constitutionality.** — Section violates equal protection clause of Alaska Constitution because it bears no substantial relationship between exempting design professionals from liability, shifting liability for defective design and construction to

owners and material suppliers, and the goal of encouraging construction. *Turner Constr. Co. v. Scales*, 752 P.2d 467 (Alaska 1988) (decided prior to the 1994 amendment).

**Collateral references.** — What statute of limitations governs action by contractee for defective or improper performance of work by private building contractor, 1 ALR3d 914.

When statute of limitations begins to run on negligent design claim against architect, 90 ALR3d 507.

Validity and construction, as to claim alleging design defects, of statute impos-

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