

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8594 HOUSE JUDICIARY

# DRAFT

If at all possible, the school should provide a fax machine that is in a physically secure location so that notifications can be transmitted at all hours of the day and night. These types of arrangements can be made with local schools, however, on occasion it will be necessary to notify schools in other communities. It may be necessary to make telephonic contact with the school directly or contact the local law enforcement agency for guidance.

Village Public Safety Officers (VPSO's) will provide the case information to a Trooper and the Trooper will be responsible to see that appropriate notification is made. This does not preclude a VPSO from taking necessary action in an emergency situation.

## How Should Notification be Made?

Whenever a member investigates a case involving a circumstance as previously described and notification will be necessary, the first part of the attached form will be completed and faxed to the appropriate school official.

It will be the responsibility of the school official to:

1. Insure that their fax machine is in a secure location and that the information provided will not be disclosed to unauthorized persons;
2. Complete the second part of the form verifying receipt of the information and fax it back to our office; and
3. Follow up by telephone or personal contact if additional case information is needed.

Keep in mind that notification of the school where the juvenile is registered, or any school where it may be necessary to protect the students or staff, may or may not be in your local area. The notification must still be made.

## How do I Know Where the Juvenile is Registered?

The best and quickest way to determine this is to ask the juvenile. While this may not be entirely reliable, it will give you some place to start. When you make the notification to the school official they will be asked to verify that the information is about one of their students.

Other methods of making this determination may require having to wait for normal business hours:

- Contact the school or school district office in the area.
- Contact DFYS
- Contact the Department of Education
- Contact the juvenile's parents or guardian

## What if the Juvenile is Not a Student?

If you determine the juvenile is not a student at any school, that does not relieve you of the responsibility to make notification if there is a potential danger to the safety of the staff or student of any school.

If, as a result of your investigation, you have reason to believe that the juvenile poses a threat to the safety of the staff or students of any school you should make a notification to that school regardless of whether or not the juvenile is registered at that school. Under certain circumstances you may be required to notify more than one school.

## What Should Be Done During the Summer and During School Closures?

Most schools are closed during the summer months and during various holiday seasons and do not have staff available nor can they provide any guarantee of security for their fax machines. Most school district offices, on the other hand, are staffed during the summer.

Getting notification information to school administrators is not as urgent when school is not in session. Procedures should be developed to maintain a point of contact at the school district offices during school closure periods and notifications should be made through that contact.

It will be the responsibility of the school district contact to insure that the notification information is forwarded to the appropriate school official once the schools re-open.

## What Should I Do With the Notification Form?

Notification of the school official should be made part of the case report and should be part of what gets transmitted to DFYS with the rest of the case report.

After you fax the notification to the school, the school official should complete the verification part of the form and fax the form back. The verified form should be made part of the case report.

If for some reason you do not receive the verification portion back, you should still make the notification form part of the case report. In this case some telephonic follow up to insure accountability for the information may be necessary.

**Alert to possible safety issue for students or staff at your school.**

Notice: The information contained in this form is confidential under AS 47.10.093 and may only be disclosed to school officials as is necessary to protect the safety of staff or students at your school. Any dissemination or other use of this information for purposes other than those stated is prohibited by law.

Date \_\_\_\_\_ Time \_\_\_\_\_ Agency \_\_\_\_\_ Agency Case # \_\_\_\_\_

Case Officer \_\_\_\_\_ Agency Telephone # \_\_\_\_\_ Agency Fax # \_\_\_\_\_

School \_\_\_\_\_ Principal \_\_\_\_\_

School Telephone # \_\_\_\_\_ School Fax # \_\_\_\_\_

Juvenile Subject Name \_\_\_\_\_ DOB \_\_\_\_\_

The juvenile subject is alleged to have committed one or more of the following offenses:

Murder  Robbery  Assault  Sexual Assault  Stalking  Criminal Mischief  Arson

Sexual Abuse of a Minor  Misc. Involving Weapons  Theft  Burglary

Misc. Involving a Controlled Substance

Other Offense: \_\_\_\_\_

Victim is Another Student or Staff Person  Offense Involved Use of a Deadly Weapon

Please notify the reporting agency if you have any information at all about this or any crime involving this subject.

**Receipt and Verification**

**Please complete and fax immediately back to law enforcement agency.**

Date \_\_\_\_\_ Time received \_\_\_\_\_

Name of person receiving information \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_

You may receive notification of an incident even if the juvenile subject is not a student at your school if there is a threat to the safety of your staff or students. If the person is a student at your school please verify their status.

Is this person a student at your school?  Yes  No  Unknown

Student Identification Number \_\_\_\_\_

If not a student at your school, do you know where this person is registered? \_\_\_\_\_

§ 47.10.093 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.093

(b) The disclosure right under (a) of this section is in addition to, and not in derogation of, the rights of a parent or legal guardian of a minor.

(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. (§ 2 ch 98 SLA 1994)

Cross references. — For effect on Alaska Child in Need of Aid Rule 22 of enactment of this section, see § 3, ch. 98, SLA 1994.

Effective dates. — Section 4, ch. 98, SLA 1994 makes this section effective June 9, 1994, in accordance with AS 01.10.070(c).

Sec. 47.10.093. Disclosure of agency records. (a) Except as specified in AS 47.10.092 and (b) — (f) of this section, all information and social records pertaining to a minor who is subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state, or municipal agency or employee in the discharge of the agency's or employee's official duty, including driver's license actions under AS 28.15.185, are privileged and may not be disclosed directly or indirectly to anyone without a court order.

(b) A state or municipal agency or employee may disclose information regarding a case to

(1) a guardian ad litem appointed by the court or to a citizen review panel for permanency planning authorized by AS 47.10.400 or 47.10.420;

(2) a person or an agency requested to provide consultation or services for a minor who is subject to the jurisdiction of the court under AS 47.10.010;

(3) school officials as may be necessary to protect the safety of school students and staff;

(4) a governmental agency as may be necessary to obtain that agency's assistance for the department in its investigation or to obtain physical custody of a child;

(5) a state or municipal law enforcement agency as may be necessary for a specific investigation being conducted by that agency or for disclosures by that agency to protect the public safety; and

(6) a victim as may be necessary to inform the victim about the disposition or resolution of a case involving a minor.

(c) A state or municipal law enforcement agency

(1) shall disclose information regarding a case that is needed by the person or agency charged with making a preliminary investigation for the information of the court under AS 47.10.020;

(2) may disclose to the public information regarding a criminal offense in which a minor is a suspect, victim, or witness if the minor is not identified by the disclosure;

(3) may disclose to school officials information regarding a case as may be necessary to protect the safety of school students and staff;

(4) may disclose to the public information regarding a case as may be necessary to protect the safety of the public; and

(5) may disclose to a victim information, including copies of reports, as necessary for civil litigation or insurance claims pursued by or against the victim.

(d) Upon request of a victim the department shall make every reasonable effort to notify the victim as soon as practicable in writing when a delinquent minor is to be released from placement in a juvenile facility under AS 47.10.080(b)(1). The notice under this subsection must include the expected date of the delinquent minor's release, the geographic area in which the delinquent minor is required to reside, and other pertinent information concerning the delinquent minor's conditions of release that may affect the victim.

(e) A person may authorize the department to release information to the military or to a prospective employer about the existence of a delinquency adjudication against that person under AS 47.10.010 and the offense on which it was based.

(f) The department may release to a person with a legitimate interest information relating to minors not subject to the jurisdiction of the court under AS 47.10.010. The department shall adopt regulations governing the release of information and identifying a sufficient legitimate interest.

(g) A person who discloses confidential information in violation of this section is guilty of a class B misdemeanor. (§ 13 ch 113 SLA 1994)

Revisor's notes. — A reference to "AS 47.10.092" was inserted in (a) of this section in 1994 to harmonize the amendments to AS 47.10 made by ch. 98, SLA 1994, and ch. 113, SLA 1994.

Effective dates. — Section 17, ch. 113, SLA 1994 makes this section effective September 1, 1994.

Editor's notes. — Section 16(2), ch. 113, SLA 1994 provides that this section, as added by § 13, ch. 113, SLA 1994 "applies to offenses committed on or after September 1, 1994."

**Sec. 47.10.097. Fingerprinting of minors.** (a) A peace officer may fingerprint a minor under the same circumstances as an adult may be fingerprinted.

(b) Fingerprint records taken under this section are not subject to AS 47.10.090. (§ 3 ch 121 SLA 1988; am § 1 ch 32 SLA 1991)

Effect of amendments. — The 1991 amendment, effective September 9, 1991, rewrote the section.


# STATE OF ALASKA

# MEMORANDUM

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF FAMILY AND YOUTH SERVICES

**Date:** March 29, 1995

**To:** Regional Administrators  
All Probation Officers

**From:** Kathy Tibbles, Acting Director   
Division of Family and Youth Services

**Subject:** Policy: Disclosure of Records to School Districts

This memo is a policy change regarding disclosure of information to school districts regarding youth who are alleged to have committed violent offenses and who may pose a danger to students or staff.

**Policy:** Effective immediately, probation officers are to notify school administrative staff if there is probable cause to believe that a youth has committed one of the following offenses and may pose a danger to students or staff:

Murder	Robbery	Criminal mischief
Assault	Theft	Misconduct w/ a weapon
Sexual Assault	Burglary	Felony drug violation
Sexual abuse of a minor	Arson	Disorderly conduct

**Background:** As you are aware, AS 47.10.093, enacted in the 1994 legislative session, made significant changes in statutes related to disclosure of DFYS records. The confidentiality changes were part of SB54, along with the waiver bill, and grew out of increasing concerns that juveniles are committing violent offenses and that the public has a right to protection. School districts are very concerned that students, teachers and administrative staff may be at risk from youth who may pose a danger on school grounds. Whereas there had been severe restrictions on release of information in the past, DFYS now has the authority to release records on a need to know basis in a number of situations [See AS 47.10.093 (b)-(f)]. The authority to release records was effective September 1994. We are working with the Department of Law to amend confidentiality regulations; in the meantime, the law takes precedence over regulations if there is a conflict.

**Procedures:** A simple half-page form has been developed to implement the Safety Alert policy change (see attached 06-9539). A supply of the forms is being printed and will be forwarded to you along with the names of individuals within each school district to be notified. In the meantime, if you should become aware of a youth who poses a danger to students or staff and has committed one of the named offenses, please either copy the form for immediate use or phone the school the youth attends.

March 29, 1995

Policy Memo: Disclosure of Information to School Districts

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This form may also be used to notify school of any other safety concerns a probation officer may have.

School districts are required to maintain the confidentiality of the information provided and may only release it on a need to know basis. We are working with the Department of Education who will advise school districts that we will be sharing this information and what steps they must take to protect the confidentiality of this information.

**Manual Change:** Through this memo, I am also requesting that the Youth Corrections Manual Committee amend the Field Services Manual to incorporate these changes and to review AS 47.10.093 for other changes that may be needed in the manual.

Thank you all for your cooperation.

attachments: AS 47.10.093  
06-9539

§ 47.10.093 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.093

(b) The disclosure right under (a) of this section is in addition to, and not in derogation of, the rights of a parent or legal guardian of a minor.

(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. (§ 2 ch 98 SLA 1994)

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(b) A state or municipal agency or employee may disclose information regarding a case to

(1) a guardian ad litem appointed by the court or to a citizen review panel for permanency planning authorized by AS 47.10.400 or 47.10.420;

(2) a person or an agency requested to provide consultation or services for a minor who is subject to the jurisdiction of the court under AS 47.10.010;

(3) school officials as may be necessary to protect the safety of school students and staff;

(4) a governmental agency as may be necessary to obtain that agency's assistance for the department in its investigation or to obtain physical custody of a child;

(5) a state or municipal law enforcement agency as may be necessary for a specific investigation being conducted by that agency or for disclosures by that agency to protect the public safety; and

(6) a victim as may be necessary to inform the victim about the disposition or resolution of a case involving a minor.

(c) A state or municipal law enforcement agency

(1) shall disclose information regarding a case that is needed by the person or agency charged with making a preliminary investigation for the information of the court under AS 47.10.020;

(2) may disclose to the public information regarding a criminal offense in which a minor is a suspect, victim, or witness if the minor is not identified by the disclosure;

(3) may disclose to school officials information regarding a case as may be necessary to protect the safety of school students and staff;

(4) may disclose to the public information regarding a case as may be necessary to protect the safety of the public; and

(5) may disclose to a victim information, including copies of reports, as necessary for civil litigation or insurance claims pursued by or against the victim.

(d) Upon request of a victim the department shall make every reasonable effort to notify the victim as soon as practicable in writing when a delinquent minor is to be released from placement in a juvenile facility under AS 47.10.080(b)(1). The notice under this subsection must include the expected date of the delinquent minor's release, the geographic area in which the delinquent minor is required to reside, and other pertinent information concerning the delinquent minor's conditions of release that may affect the victim.

(e) A person may authorize the department to release information to the military or to a prospective employer about the existence of a delinquency adjudication against that person under AS 47.10.010 and the offense on which it was based.

(f) The department may release to a person with a legitimate interest information relating to minors not subject to the jurisdiction of the court under AS 47.10.010. The department shall adopt regulations governing the release of information and identifying a sufficient legitimate interest.

(g) A person who discloses confidential information in violation of this section is guilty of a class B misdemeanor. (§ 13 ch 113 SLA 1994)

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(b) Fingerprint records taken under this section are not subject to AS 47.10.090. (§ 3 ch 121 SLA 1988; am § 1 ch 32 SLA 1991)

Effect of amendments. — The 1991 amendment, effective September 9, 1991, rewrote the section.

## Safety Alert to School Districts

To: Designated Contact of \_\_\_\_\_ School

From: \_\_\_\_\_ Probation Officer, phone # \_\_\_\_\_

Youth's Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Youth is alleged to have committed the following:

- |   |                                   |   |
|---|-----------------------------------|---|
| <input type="checkbox"/> Murder                     | <input type="checkbox"/> Robbery  | <input type="checkbox"/> Crim. Mischief     |
| <input type="checkbox"/> Assault                    | <input type="checkbox"/> Theft    | <input type="checkbox"/> Miscon. Weapon     |
| <input type="checkbox"/> Sexual Assault             | <input type="checkbox"/> Burglary | <input type="checkbox"/> Felony Drug        |
| <input type="checkbox"/> Sexual Abuse of a minor    | <input type="checkbox"/> Arson    | <input type="checkbox"/> Disorderly Conduct |
| <input type="checkbox"/> VICTIM IS STUDENT OR STAFF |                                   |   |

Other: \_\_\_\_\_

Date and place of offense (e.g. school?): \_\_\_\_\_

Placement this date \_\_\_\_\_

→ *If the school has any information that may assist the Probation Officer in handling this case, please call.* ←

**CONFIDENTIAL:** The information set out in this form is confidential by law (AS 47.10.093) and can only be placed in the student's record and disclosed to school officials as necessary to protect the safety of school students and staff. Any other dissemination of this information is a class B misdemeanor offense.

To: Members of the House Judiciary Committee  
From: John Cyr, Teacher, Wasilla High  
Re: HB 125

My name is John Cyr. I started teaching in 1971. The young people that I work with now are more violent and more callous than I could have imagined in the early days of my career.

I teach U.S. and World History at Wasilla High. I started the year with over 160 students on my class rolls. More than fifty per cent of them come from non traditional homes, nearly fifteen percent of them are on their own. They share apartments with friends or move from house to house as the occasion arrives. Some of my students have probation officers and more than a few have been through the juvenile court system. I have had more than one student this year who has had to wear a court ordered bracelet that allows the court to monitor their activities at all times. The days of Ozzie and Harriet are long over.

How do I know about probation officers and ankle bracelets? --- The kids tell me and they brag to each other. --- But what about the violent young adults who don't brag to their friends? Which ones are they? How many hand guns are taken from students in Anchorage who later end up in my history classes?

To some extent I am worried about these young offenders, but, my primary concern must be the education and safety of all the students that I see everyday. Schools must be a sanctuary. Young people must be safe in the school environment. The only way for our young people to be safe is for those of us who are in the trenches, teachers and classroom aides, to know who we are dealing with. If a student has a history of violent behavior we must be made aware of the situation. We must be given the opportunity to educate and to protect everyone in our classes.

(b) The disclosure right under (a) of this section is in addition to, and not in derogation of, the rights of a parent or legal guardian of a minor.

(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. (§ 2 ch 98 SLA 1994)

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(d) Upon request of a victim the department shall make every reasonable effort to notify the victim as soon as practicable in writing when a delinquent minor is to be released from placement in a juvenile facility under AS 47.10.080(b)(1). The notice under this subsection must include the expected date of the delinquent minor's release, the geographic area in which the delinquent minor is required to reside, and other pertinent information concerning the delinquent minor's conditions of release that may affect the victim.

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impartial investigation of all apparent violations. If it reasonably appears upon investigation that a person has violated AS 14.30.010, the governing body of a district school or regional educational attendance area, or the chief administrative officer of a private or federal school, shall make and file with the district court a complaint against the person, charging the violation. (§ 37-7-3 ACLA 1949; am § 1 ch 32 SLA 1949; am § 38 ch 98 SLA 1966; am § 55 ch 6 SLA 1984; am § 23 ch 85 SLA 1988)

**Effect of amendments.** — The 1988 amendment, effective June 2, 1988, deleted the former last sentence, which read "The judge or magistrate may issue a warrant for the arrest of the person and may act upon the complaint."

**Legislative history reports.** — For an analysis of the amendment of this section

by § 23, ch. 85, SLA 1988 (HCS CSSB 413 (Jud)), see 1988 House & Senate Joint Journal Supplement No. 18, May 10, 1988, p. 5.

**Collateral references.** — Privilege in reports or statements about school pupils. 12 ALR 147.

*Sec. 14.30.040. Extension of provisions to United States public schools for aborigines. [Repealed, § 59 ch 98 SLA 1966.]*

**Sec. 14.30.045. Grounds for suspension or denial of admission.** A school age child may be suspended from or denied admission to the public school that the child is otherwise entitled to attend only for the following causes:

(1) continued wilful disobedience or open and persistent defiance of reasonable school authority;

(2) behavior that is inimicable to the welfare, safety, or morals of other pupils;

(3) a physical or mental condition that in the opinion of a competent medical authority will render the child unable to reasonably benefit from the programs available;

(4) a physical or mental condition that in the opinion of a competent medical authority will cause the attendance of the child to be inimicable to the welfare of other pupils;

(5) conviction of a felony that the governing body of the district determines will cause the attendance of the child to be inimicable to the welfare or education of other pupils. (§ 39 ch 98 SLA 1966)

NOTES TO DECISIONS

Quoted in Breese v. Smith, 501 P.2d 159 (Alaska 1972).

**Collateral references.** — Regulations forbidding pupils to leave school grounds during school hours. 32 ALR 1342; 48 ALR 659.

Smoking as ground for expulsion or sus-

pension of pupil. 33 ALR 1180.

Personal liability of school authorities for dismissal or suspension of pupil. 42 ALR 763.

Expulsion or suspension from private



*Association of Alaska School Boards*

AASB Quick Survey

Topic: Disclosure of Information on Minors

page two

The following thirty-nine (39) school districts responded:

√	Adak		Nome
	Alaska Gateway		Northwest Arctic
	Anchorage	√	North Slope
	Annette Islands		Pelican
	Bering Strait	√	Petersburg
√	Bristol Bay		Pribilof
	Chatham	√	Sitka
	Copper River		Skagway
	Delta/Greely		Southeast Island
	Denali-Borough		Southwest Region
	Dillingham		St. Mary's
	Haines	√	Tanana
√	Hoonah		Unalaska
√	Hydaburg		Valdez
	Iditarod		Wrangell
	Juneau		Yakutat
	Kashunamiut		Yukon Flats
	Kenai		Yukon-Koyukuk
	Kuspuk		Yupit
	Mat-Su		

√ these districts currently receive information

*Provided by:*

*The Association of Alaska School Boards  
316 W. 11th Street  
Juneau, Alaska 99801  
907-586-1083*

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

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

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

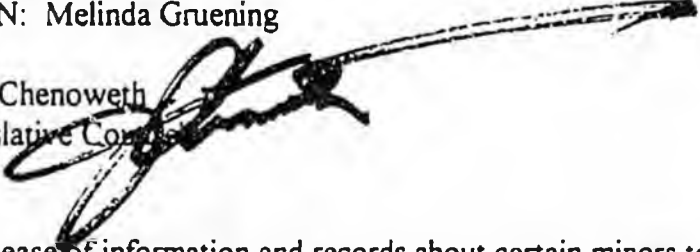
**MEMORANDUM**

February 21, 1995

**SUBJECT:** Draft CSHB 125( ), relating to disclosure of information about minors to school officials: sectional analysis (Work Order No. 9-LS0499\G)

**TO:** Representative Joe Green  
ATTN: Melinda Gruening

**FROM:** Jack Chenoweth  
Legislative Counsel



The bill proposes to allow release of information and records about certain minors to school officials, and sets new limitations on the further release of that information or those records. The information and records that may be disclosed derive from two sources, records of the Alaska Court System and records compiled and maintained by law enforcement agencies.

\*

The first five sections of the bill speak to information and records of the Alaska Court System.

The principal operative provision is bill section 5. Under that bill section, if the courts have entered an order adjudicating a minor a delinquent, the clerk of the court in which that order is entered is directed to transmit a copy of the adjudication order to the principal of the minor's school under the following circumstances:

(1) the offense for which the minor was adjudicated a delinquent occurred on school property; or

(2) the offense involved one of the following offenses that, if committed by an adult, would be a criminal offense:

(A) a crime against a person (AS 11.41) punishable as a felony;

(B) a property crime (AS 11.46.100 - 11.46.490) punishable as a felony;

(C) a controlled substance offense (AS 11.71) punishable as a felony; or

(D) an offense, however classified, involving the possession or use of a deadly

weapon.

Additionally, the clerk of the court is to give notice to the school principal receiving the copy of the order as to the limitations on the order's further release, and is to maintain a record of the release and the basis for that release.

Representative Joe Green

February 21, 1995

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Disclosure of court system records under AS 47.10.090(f) implicates existing laws relating to confidential treatment of court records concerning minors and the possibility of eventual closure and sealing of records about a minor. The changes proposed by bill sections 1 - 4 recognize the exception for the records disclosable under AS 47.10.090(f) from existing provisions generally applicable to continued confidential treatment and sealing of those records.

The last three sections of the bill speak to the manner of handling information and records of agencies.

Bill section 6 makes a collateral change to recognize that AS 47.10.093(h) is a further exception to the general rule that agency records concerning minors are to be confidentially handled.

Bill section 7 amends AS 47.10.093(c) the first change directs a law enforcement agency to release information to a school principal relating to an offense alleged to have been committed by a minor if the law enforcement agency has probable cause to believe that the minor committed an offense described in AS 47.10.090(f)(1)(B)--these are enumerated above--or committed an offense in which the victim was a student or staff member of the school and the giving of the notice is reasonably necessary for the protection of that victim. The second change amends current law to make mandatory the permission disclosure of information about a case in order "to protect the safety of school students and staff." These mandatory disclosures are in addition to the optional or discretionary disclosure currently allowed by law.

Bill section 8 amplifies the law enforcement disclosure provisions:

-- subsection (h) permits the school principal to whom information had been disclosed to re-disclose within the limitations noted;

-- subsection (i) makes an exception to law enforcement agency disclosure if a disclosure would jeopardize an ongoing investigation;

-- subsection (j) sets out a definition for the term "school."

JBC:glc

95-152.glc

# ALASKA

## CIVIL LIBERTIES UNION

*An Affiliate of the American Civil Liberties Union*  
P. O. Box 201844 Anchorage, AK 99520-1844  
Phone: 1-807-258-0044 Fax: 1-907-258-0288

March 7, 1995

The Honorable Con Burde and Cynthia Toohey  
Co-Chairs -- House Health, Education,  
and Social Services Committee  
Alaska House of Representatives  
State Capitol Building, Room 104  
Juneau, AK 99801-1182

re: House Bills 104 and 125

Dear Representatives Toohey and Burde:

I am writing to you on behalf of the Board of Directors and the members of the Alaska Civil Liberties Union (AKCLU) in regards to two related bills currently pending before your committee: HB 125 and 104 relating to the disclosure of information regarding juvenile offenders. These bills would expand the disclosure of information regarding juvenile offenders. House Bill 125 provides for release of information to school officials and HB 104 provides release of the minor's name, address and offense, if the minor is over 14 and the offense would have been a felony if the minor was an adult.

The AKCLU opposes these changes. One of the most serious problems faced by a person who has a juvenile record is the possibility that it will be discovered by prospective employers. For this reason, juvenile records are purportedly made confidential by statute in every state. Many states including Alaska provide procedures by which a juvenile record may be sealed or expunged upon the individual reaching the age of majority. The underlying philosophy of these laws is that young people who have not fully matured, should not be stigmatized for acts of indiscretion which could have a permanent impact on their lives. Instead, Alaska and other states have passed laws to guard the privacy of juveniles and to make rehabilitation, not punishment, the primary focus of the juvenile justice system.

Our opposition to these bills rests primarily on the privacy clause (section 22) and the right of rehabilitation (section 12) of the Alaska Constitution. We believe that these bills will certainly impede the juveniles ability to be rehabilitated. Release of information about juvenile offenses will also interfere with the juvenile's right of privacy.

Page Two -- Representatives Toohy and Bunde -- March 7, 1995

There is little or nothing to be gained from changing the law as it currently exists, and much to lose. Under current law, juvenile records may be released for "good cause." It is typical practice under the current system for judges, prosecutors, probation officers, social workers and even school officials to have information about a juvenile offense. For example, if a juvenile is charged with an offense it is normal for prior offenses to be considered by the judge or magistrate when setting release conditions. Prosecutors frequently hinge charge bargaining decisions on whether juveniles have records. Juveniles who wish to be considered for probation are often required to cooperate with school officials or rehabilitation programs which involves divulging information about the offense to such people. In those situations where it is necessary to release a juvenile's record (e.g. where "good cause" exists), the current law permits for that information to be distributed.

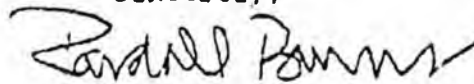
By changing the law, two things will happen. First, the media will have access to information about any juvenile felony level offense of children over the age of 14. This could have a potentially devastating impact on the lives of children. Information about any felony level offense, no matter how minor, can be distributed to the public at large impacting that child's life dramatically by hampering his or her ability to seek employment, participate in community activities, and exposing him or her to community animosity. In this atmosphere, a child is more likely to suffer permanent consequences of what may have been a stupid mistake and less likely to be rehabilitated and reintegrated into the community. By stigmatizing a child, we greatly reduce the probability that the youth will see any value in attempting the hard work of putting his or her life back together. Having been already branded "criminal" he or she is likely to continue the same patterns and associate with the same people that led to involvement with the justice system. By giving up on our young people so early, we are effectively agreeing to "throw away" our youth.

Secondly, by automatically informing the school authorities about certain juvenile offenses, the juvenile will likely suffer adverse consequences. He or she may be suspended from school, forbidden to participate in extra-curricular activities, and suffer the criticism and ostracism of his peers, all of which will also hinder his or her likelihood of rehabilitation. Again, there is no reason to change the current law to allow for protection of the school community. If the prosecuting authorities or the court determine that there is "good cause" to release this information to school authorities, then the current law provides for the release of that information.

Page Three -- Representatives Toohay and Bunde -- March 7, 1995

Thank you for your attention to this matter. We ask you to consider our concerns and reject these proposed bills.

Sincerely,

A handwritten signature in cursive script that reads "Randall Burns".

Randall Burns  
Executive Director

RCK:RFB

CONFIDENTIALITY IN JUVENILE DISCLOSEURE IN OTHER STATES.

Attachment B is a copy of a 1994 publication, "Confidentiality of Juvenile Court Records Statutes Analysis," conducted by Linda Szymanski of the National Center for Juvenile Justice (NCJJ), an independent, nonprofit research group. According to Ms. Szymanski's summaries, as of 1993, juvenile statutes provided specifically for the following:

- 36 states and the District of Columbia provide for the release of records to persons having a legitimate interest;
- 4 states provide specifically for release of information to persons in danger from the child;
- 25 states provide specifically for release of information to victims of the crime;
- 13 states provide for release of juvenile records to school officials;
- 2 states provide specifically for release of information to the news media under some limited circumstances; and
- 24 states provide for release of information about certain crimes to the general public under special circumstances.

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<sup>2</sup>The state Division of Family and Youth Services (DFYS) and the DHHS consider Title IV-B--child welfare services--funding to be at risk along with funding for Title IV-E programs. According to Kathy Tibbles, acting director of DFYS, although the major share comes from the IV-E programs, funding from the two sources totals nearly \$7 million dollars annually.

Representative Green

February 8, 1995

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Of the 24 states Ms. Szymanski cites as providing for release of information about certain crimes to the general public under special circumstances, 4 refer specifically to records of juveniles who have been transferred to adult courts. Although the particulars vary, another 12 states provide specifically for public access to records of juveniles charged with or adjudicated for crimes that would be considered felonies if committed by adults. (Since Ms. Szymanski published the report, at least one other state--Illinois--has passed a similar law, and at least one additional state--Utah--is considering a similar law.) Louisiana appears to be unique in requiring that the name of a serious violent offender be released only after the entire appeal process has been exhausted. The following states' provisions may be of particular note.

**California, WI.676.** The names of minors having committed serious violent offenses shall not be confidential, unless the court, for good cause, so orders. Any party may petition the court to prohibit disclosure, and the court shall grant the petition if it appears that the harm to the minor, victims, witnesses, or public from the disclosure outweighs the benefit of public knowledge.

**Colorado, 19.1.119 (1)(b.5).** Basic information in the court records of a juvenile charged or convicted of an act that would have constituted a class 1,2,3, or 4 felony if committed by an adult shall be open to the public.

**Florida, 39.045 (9).** A law enforcement agency may release for publication the name and address of a child of 16 or more years who has been taken into custody for a violation of law which, if committed by an adult, would be a felony, or the name and address of any child 16 or older who has been found to have committed at least three or more violations which, if committed by an adult, would be misdemeanors, or the name and address of any child who has been adjudicated guilty of a capital felony, life felony, first degree felony, or a second degree felony involving violence against a person.

**Montana, 41.5.601(2).** Publicity may not be withheld regarding any youth formally charged with an offense that would be punishable as a felony if the youth were an adult.

**New Jersey, 2A.4A.60(d).** Information as to the identity of a juvenile, the offense, the adjudication and the disposition of a case shall be disclosed to the public where the offense for which the juvenile has been adjudicated delinquent, if committed by an adult, would constitute a crime of the first, second, or third degree, or aggravated assault, destruction or damage to property to an extent of more than \$500, or the manufacture or distribution of a narcotic drug, unless upon application at the time of disposition the juvenile can demonstrate a substantial likelihood that specific harm would result from such disclosure.

**Oklahoma, 10.51.1125.3.** Confidentiality restrictions shall not apply if a juvenile is adjudicated for a serious act or for certain habitual criminal acts.

**Virginia, 16.1.309.1.** Where consideration of public interest requires, the judge may make public the name and address of a child and the nature of the offense for which the child has been adjudicated delinquent if for an act which would be a class 1,2, or 3 felony, forcible rape or robbery if committed by an adult, or in any case where a child is sentenced as an adult.

**Wyoming, 14.6.240 (d).** The court may release to the news media the name of a child who has been adjudicated a delinquent for a second or subsequent time pursuant to a petition filed under this act alleging the commission of a delinquent act constituting a felony.

I spoke with program representatives in Colorado, Florida, and Wyoming about Title IV-E funding in relation to the release of juvenile court records. **These states have experienced no funding problems in connection with access to juvenile justice records.**

- Sharen Ford, program administrator with the Division of Child Welfare Services in Colorado, notes that a few months ago, the juvenile justice and child welfare services functions were consolidated into a single department. The state's Title IV-E and IV-B funding has not been impacted--either before or after consolidation--by the release of juvenile records.
- Janet Ferris, general counsel for Florida's youth services program, notes that in the past, Florida has not sought Title IV-E and IV-B funding for delinquent youth. Thus, Florida has not had occasion to test the compatibility of Title IV-E confidentiality requirements and the state's release of juvenile records provision. With a potential of approximately \$39 million annually, however, IV-E funding is currently a high priority. Ms. Ferris is not anticipating a problem in regard to confidentiality requirements.
- Jim Mitchell, management consultant for Wyoming's Division of Youth Services, Department of Family Services, notes that a law similar to their current one has been in effect in Wyoming since 1957. Mr. Mitchell, who is the former administrator of the division, states that both children's services and juvenile justice are administered within the Division of Youth Services, and that the IV-E funds serve delinquent children on a regular basis. Wyoming has never experienced a problem with their Title IV-E funding.

I also spoke with Dan Lewis, at the Children's Bureau, the Administration for Children, Youth, and Families, US DHHS. Mr. Lewis suggested that I submit a formal request for an interpretation of the confidentiality requirements in regard to this issue to the associate commissioner of the Children's Bureau. I will forward copies of my request and the response when it arrives.

Representative Green  
February 8, 1995  
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### **Legislative History and Intent--Confidentiality of Juvenile Court Proceedings**

The Laws of Alaska in 1957 provided that the public be excluded from all juvenile hearings. Certain persons could be permitted to attend if, in the judge's opinion, such attendance was in the best interest of the minor. This aspect of the law has not changed, although in 1966 the legislature added a provision allowing for the presence of a "young adult advisory panel," and in 1991, the legislature passed a provision granting a victim the unlimited right to attend a hearing. The addition of the advisory panels was intended to allow for some measure of peer pressure for juveniles, as well as to provide a wider range of young adults with a look at the potential consequences of criminal behavior. The right to be present allowed to victims is in keeping with the victims' rights movement across the country.

Attachment C is a copy of Linda Szymanski's recent NCJJ publication, "Confidentiality of Juvenile Court Delinquency Proceedings (1994 Update)." As of 1994, 20 states admit the general public to juvenile hearings, at least under some circumstances. According to the summary provided, **hearings in nine states--California, Delaware, Kansas, Louisiana, Maine, Minnesota, Montana, Oklahoma, and Utah--are open if the crimes are serious.**

The general rule has always been that juvenile hearings, like juvenile records, should be kept confidential because children can change their behavior, have their records sealed, and go on to lead productive lives. Public sentiment, however, is changing in this regard.

The possibility of open juvenile court hearings raises questions about eligibility for Title IV-E funding similar to those raised by access to or publication of juvenile court records. I will include this issue in my request to the Children's Bureau.

I hope this information is helpful. If you have questions or need further information, please let me know.

Attachments



# NEA-ALASKA

*affiliated with the National Education Association*

## NEA-ALASKA POSITION STATEMENT

### HB 125

NEA-Alaska supports passage of HB 125 to strengthen reporting of the names of students who commit incidents that would be crimes if committed by adults. In a quick survey of large and small school districts, NEA-Alaska found that teachers and school employees are not informed of the names of students who commit violent acts within the community. Those responding to the survey indicated that the superintendent, counselors and building principals where students are enrolled should be informed. Administrators should then inform teachers and teacher aides who are working with the student.

Concerning when information should be provided teachers or aides, most respondents indicated that it should be provided right away particularly if the student has committed an act that would be considered violent.

Even though only eight districts responded to the survey that was distributed Monday, it appears that the consensus among large and small districts, based on early results of our survey, is that violence is increasing in school districts. Based on other reports from school employees we believe violent behavior is increasing and poses a threat to students and school employees in classroom settings.

NEA-Alaska views HB 125 as a vehicle to open communication between agencies and school districts concerning students who demonstrate inimicable behavior in the public.

3-16-95



# NEA-ALASKA

Affiliate of the National Education Association

To: Local Association Presidents      RAW RESPONSES

From: Vernon Marshall                      TOTAL RESPONSES: 17

Re: School Violence Survey              MARCH 27, 1995

*Please take a few minutes to complete the survey. Please return the survey by fax (586-2744) by Wednesday, March 22, 1995. Your responses are strictly confidential and will be used by NEA-Alaska to assist us formulate legislation on various school violence and disruptive student issues.*

*Even if you cannot complete the survey for your entire district, please complete for your school site and return.*

1. Do you feel that student violence has increased within your school district this year? (Please circle one)
- a. Not increased      9
  - b. Increased somewhat      8
  - c. Increased dramatically      1
  - d. Decreased      0

2. Concerning students who may commit violent acts within the community, are teachers or school employees informed of the names of students who have demonstrated or committed violent acts within the community?

Yes 2    No 15  
Who informs you?

- a. Probation officer
- b. School Principal
- c. School Superintendent
- d. Another teacher
- e. Parent
- f. Other (Please specify) \_\_\_\_\_

3. Which individual(s) employed in the school district do you feel should be informed about students who are on probation for or have been convicted of violent acts?

Please specify the name of the person(s) who should receive such information

Responses: Superintendent      3  
Principal                              17  
Counselor                              4

Teacher 9  
Playground supervisor 1  
Special ed. teacher 1  
Teacher aide 1

4. When do you feel a school employee should receive information about violent students who are either on probation or have been convicted of committing a violent act?

When the student enters the class or when the event occurs

At the time the student returns to school

As soon as possible

Prior to interacting with that student

When the student returns

Upon return to school

Immediately

Right away (2 respondents)

Upon return to school environment unless there is a safety issue beyond the school

Upon enrollment in school

Anytime the school employee is required to supervise the student

ASAP

5. Does your school district offer an alternative school program for students with discipline problems? Yes 5 No 12 Not sure \_\_\_\_\_

Does the program emphasize stress management, conflict resolution, violence prevention or substance abuse control? Yes 3 No 4  
Not sure 2

Are parents involved in any phase of an alternative program designed to address a child's discipline problem? Yes 3 No 3 Not sure 2

6. Does your school district have a policy on pupil discipline?  
Yes 16 No \_\_\_\_\_ Not sure 1 Has the policy been published in the newspaper or been distributed to parents of the school district within the last year? Yes 10 No 2 Not sure 2

(b) The disclosure right under (a) of this section is in addition to, and not in derogation of, the rights of a parent or legal guardian of a minor.

(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. (§ 2 ch 98 SLA 1994)

**Cross references.** — For effect on Alaska Child in Need of Aid Rule 22 of enactment of this section, see § 3, ch. 98, SLA 1994. **Effective dates.** — Section 4, ch. 98, SLA 1994 makes this section effective June 9, 1994, in accordance with AS 01.10.070(c).

**Sec. 47.10.093. Disclosure of agency records.** (a) Except as specified in AS 47.10.092 and (b) — (f) of this section, all information and social records pertaining to a minor who is subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state, or municipal agency or employee in the discharge of the agency's or employee's official duty, including driver's license actions under AS 28.15.185, are privileged and may not be disclosed directly or indirectly to anyone without a court order.

(b) A state or municipal agency or employee may disclose information regarding a case to

(1) a guardian ad litem appointed by the court or to a citizen review panel for permanency planning authorized by AS 47.10.400 or 47.10.420;

(2) a person or an agency requested to provide consultation or services for a minor who is subject to the jurisdiction of the court under AS 47.10.010;

(3) school officials as may be necessary to protect the safety of school students and staff;

(4) a governmental agency as may be necessary to obtain that agency's assistance for the department in its investigation or to obtain physical custody of a child;

(5) a state or municipal law enforcement agency as may be necessary for a specific investigation being conducted by that agency or for disclosures by that agency to protect the public safety; and

(6) a victim as may be necessary to inform the victim about the disposition or resolution of a case involving a minor.

(c) A state or municipal law enforcement agency

(1) shall disclose information regarding a case that is needed by the person or agency charged with making a preliminary investigation for the information of the court under AS 47.10.020;

(2) may disclose to the public information regarding a criminal offense in which a minor is a suspect, victim, or witness if the minor is not identified by the disclosure;

3) (may) disclose to school officials information regarding a case as may be necessary to protect the safety of school students and staff;

4) may disclose to the public information regarding a case as may be necessary to protect the safety of the public; and

5) may disclose to a victim information, including copies of reports, as necessary for civil litigation or insurance claims pursued by or against the victim.

(d) Upon request of a victim the department shall make every reasonable effort to notify the victim as soon as practicable in writing when a delinquent minor is to be released from placement in a juvenile facility under AS 47.10.080(b)(1). The notice under this subsection must include the expected date of the delinquent minor's release, the geographic area in which the delinquent minor is required to reside, and other pertinent information concerning the delinquent minor's conditions of release that may affect the victim.

(e) A person may authorize the department to release information to the military or to a prospective employer about the existence of a delinquency adjudication against that person under AS 47.10.010 and the offense on which it was based.

(f) The department may release to a person with a legitimate interest information relating to minors not subject to the jurisdiction of the court under AS 47.10.010. The department shall adopt regulations governing the release of information and identifying a sufficient legitimate interest.

(g) A person who discloses confidential information in violation of this section is guilty of a class B misdemeanor. (§ 13 ch 113 SLA 1994)

*Revisor's notes.* — A reference to "AS 47.10.092" was inserted in (a) of this section in 1994 to harmonize the amendments to AS 47.10 made by ch. 98, SLA 1994, and ch. 113, SLA 1994.

*Effective dates.* — Section 17, ch. 113, SLA 1994 makes this section effective September 1, 1994.

*Editor's notes.* — Section 16(2), ch. 113, SLA 1994 provides that this section, as added by § 13, ch. 113, SLA 1994 "applies to offenses committed on or after September 1, 1994."

**Sec. 47.10.097. Fingerprinting of minors.** (a) A peace officer may fingerprint a minor under the same circumstances as an adult may be fingerprinted.

(b) Fingerprint records taken under this section are not subject to AS 47.10.090. (§ 3 ch 121 SLA 1988; am § 1 ch 32 SLA 1991)

*Effect of amendments.* — The 1991 amendment, effective September 9, 1991, rewrote the section.

## Reflections . . .

by Esther Cox, NASSP President and Principal, King Career Center

Idaho invited me to their annual state conference in Boise, so I spent the last couple of days with new friends and many old friends I met through Region VII. Gene Soderquist from Pocatello, K.C. Albright from Moscow — Region VII's new lead coordinator now that John Lewis from Oregon will be the Region's new NASSP Board member at the conclusion the San Antonio conference — Judy Drake from Coeur d'Alene, and Executive Director Mike Friend all made for a warm welcome. Felt like I was in the banana belt as it was 57 degrees. Must admit that I didn't miss the feet and feet of snow I'd left at home!

Principals in Idaho are a tad uneasy with the change in the administration of their State Superintendent of Public Instruction. Dr. Anne Fox (we both spoke at the last session and it sounded like an old vaudeville dance team—Cox and Fox) has been a principal, superintendent, and a professor at Gonzaga University and has just been elected Chief State School Officer for Idaho. If she does what she indicated in her presentation — "won't meddle in their lives," "will be there to give assistance," "will cut down as much bureaucratic red tape as she can so principals can get on with being educational leaders," "will suggest and not mandate," —

Idaho principals will be in good shape. They are skeptical, but Dr. Fox feels that is because she has been quoted out of context by the Idaho media. Idaho principals are like you: hardworking, dedicated, fighting for time to provide instructional leadership, frustrated by mandates and regulations that prohibit their getting the job done.

This became very apparent when principals spoke out at a Juvenile Justice panel at one of the general sessions. The panel consisted of principals, a State House and a Senate member, a member of juvenile justice system, and a police sergeant who deals with juveniles. An Idaho legislative panel had just completed hearings across the state on juvenile crime and

***Frankly, I believe juveniles must understand that there are consequences for felonious actions and age isn't going to relieve them of the responsibilities of their actions.***

justice, and the two legislators represented on the guest panel had served on that statewide committee. The same issues were raised statewide: the need to encourage if not force parent responsibility for their juveniles; timeliness of the perpetration of a crime and the court action (right now the Meridian principal complains that the average time was 8 months—8 months that a student is back in school); confidentiality rules that protect the perpetrator but hinder the attempts of school personnel to serve that student as well as the rest of the student body; the need for a shared

data information system on these juveniles, which again runs amuck with the confidentiality rules; a balanced approach which really means a move from a medial approach to a change of behavior; and great concern on how the juvenile justice system and the school system can work together.

Boise schools have police officers housed on all secondary school campuses, and many principals are asking that a probation officer be assigned to and housed on each campus. Terry Kluever, principal at Meridian High School, was adamant that the lack of information coming from the court regarding juvenile offenders contributes to the lack of security she can

provide for the other students in her school.

The legislature did pass a law that allows information to flow from the court to the schools, but Court Rule #32 has been invoked prohibiting that flow, so the new law is in jeopardy. The legislature says the law supersedes the court rule, and visa versa; the debate rages until some body settles it. In the meantime, the schools are not receiving any information on juvenile offenders. They have never gotten out of square one!

Many principals echoed that Idaho schools are being inundated with people looking

for "safe havens" for their children. Lots of refugees from California are moving in. Together with an upsurge of gangs into their schools and many Idaho communities having no local law enforcement, principals are feeling frustrated and angry over what they are asked to face with little or no help to do it. Pat Valliant, principal at Pocatello, flat stated that it is imperative to exercise consistency: when juveniles break the law, they are punished; that more accountability must be expected from juveniles; that confidentiality regulations must be relaxed; that assaulting school personnel must be a felony.

The legislators present had gotten their ears full at the statewide hearings, and the IASSP group was vociferous here. The legislators were quick to say that juvenile justice was moving from Health and Welfare to the Department of Corrections. Rep. Gould stated that funding for education detention centers needed immediate legislative attention. The bottom line is that the legislature is going to have to provide the resources before the rhetoric can become reality.

Frankly, I believe juveniles must understand that there are consequences for felonious actions and age isn't going to relieve them of the responsibilities of their actions. Last fall four sixteen year old KCC students shot and killed a



## Reflections (cont. from page 12)

former student for \$157. They shot him 22 times with three different guns. When Brad Snodgrass and I talked with the police detective, he said these young men thought they would spend a couple of years in McLaughlin, would be released, and would then "get on with their lives." Thanks to the new conspiracy law passed by the Alaska legislature last session, these 16 year olds will be tried as adults and while awaiting trial have been spending time in the big boys' jail. Chief O'Leary told me they may "get on with their lives," OK, but in 70 or 80 years. Had the boys known those consequences, they many not have been so eager to destroy a life.

The difficulty in obtaining records from schools when students transfer into Idaho schools was a topic of some discussion. Terry Kluever said they absolutely hold the line with "No records—no



entry." She said it gives real impetus to parent involvement! Pat's right! We get so involved doing everything for parents and kids that we lose sight of letting them be responsible for what they should be responsible for.

*Ralph told a story about his absentmindedness that really tickled my funny bone. He said several years ago they found a bigger house for the family, so they moved about a mile and a half from where they had lived for years. As he was leaving for work on that first morning in the new house, his wife gave him a slip of paper with the new address on it. Ralph said he was offended, but she insisted that he put it in his pocket because he would forget.*

*That evening, he could not get the key into the door lock no matter how hard he tried. It finally dawned on him that they had moved and he was at the wrong house. He began going through his pockets looking for the address his wife had given him. Of course he couldn't find it.*

*A little girl came up to him as he stood on the sidewalk going through his pockets. He thought that he would be cagey and get the information that he needed without letting her know about his forgetfulness.*

*"Young lady, do you know the people who lived in this house?"*

*"Yes."*

*"Would you know where they have moved?"*

*To which the little girl answered, "Come on home, Daddy. Momma said you'd forget!"*

For humor, a good word, and a kind thought, Ralph Hood from Huntsville, Alabama, spoke at two sessions. His home-spun humor, his poking fun at himself and the principals sitting closest to him, his uncompromising optimism always make time spent with Ralph delightful. Ralph is a pilot and a former airplane salesman, and he uses the air traffic weaverman's "it's clear on top" as a theme to wind his comments around. It's an apt theme for school people because when a student or a teacher has a success; when kids turn into real and caring people; or when a student throws an arm you and says, "You're an OK principal," you, too, know that it's "clear on top."

San Antonio (the NASSP Convention) is not far away. Hope you have your denims and boots and are ready for networking with principals from all over this nation, new ideas, conversation, and just plain fun. You deserve all those things.

See you in Texas!



**SCHOOL VIOLENCE**

By Veronica O. White

*School crimes have become more violent.*

Violence and the threat of violence are escalating in many of our public schools, once considered safe havens for learning. Many teachers and students endure intimidation and fear of violence every day. Nearly one in four students and one in 10 teachers have been victims of violence. About 3 million crimes occur on or near school property each year. Approximately 135,000 guns are brought into school every day.

Look at how times have changed: In 1940 the top seven problems in public schools identified by teachers were talking out of turn, chewing gum, making noise in the classroom, running in the halls, cutting in line, littering and disobeying the dress code. Compare this with what educators considered problems in 1993: assaults by students on teachers and other students, weapons in school, racial or ethnic attacks, gang disruptions, shootings, knifings and drive-by shootings. Struggling to learn and educate under such conditions create a severe emotional burden for many students and teachers.

Behavior	Teachers Who Believe it Is a Major Problem		Students Who Believe it Is a Major Problem	
	Urban	Suburban or Rural	Urban	Suburban or Rural
	Verbal Insults	36 %	22 %	40 %
Threats to Students	22	9	28	21
Threats to Teachers	8	2	19	13
Pushing, Shoving, Grabbing or Slapping	39	24	39	29
Kicking, Biting or Hitting with a Fist	20	10	31	26
Threatening Someone with a Knife or Gun	5	2	23	17
Using Knives or Firing Guns	4	2	24	16
Stealing	28	15	38	38

*Source: The Metropolitan Life Survey of The American Teacher: Violence in America's Public Schools. Louis Harris & Associates Inc., 1993.*

*Violence in schools is not merely a school problem.*

School violence arises from a combination of variables that influences children to be perpetrators or victims. Behind the rash of school violence are deeply rooted social problems including poverty, the increase of single-parent households, race and ethnic tensions, the glorification of violence by television and movies, and the easy availability of guns and drugs.

Because the causes of school violence are complex, states are trying a variety of solutions. Some of them are alternative schools, conflict resolution and peer mediation programs, and strengthening laws regarding truancy, expulsion and carrying weapons on school property.

*Alternative schools may help.*

Alternative schools offer students who are in danger of dropping out various opportunities to stay in school. They may be campus programs, schools within schools, separate facility schools, community programs or intervention programs. Through a smaller, flexible learning environment, alternative schools serve students with discipline problems, academic problems or long-term

absences. An important component of alternative schooling is improving students' self-esteem and self-confidence. Rather than simply expelling a difficult student from a regular classroom and sending him out on the streets, alternative schools offer a second change through individualized instruction and counseling and accelerated learning programs. Alternative programs for disruptive youth share some characteristics that make them successful:

- ✓ Direct supervision of all activities.
- ✓ Mandatory parent and student counseling.
- ✓ Daily attendance and progress reports.
- ✓ High standards and expectations of performance.

In **TENNESSEE**, districts must provide an alternative school for students with discipline problems. This year, **GEORGIA** is funding 88 alternative programs to serve chronically disruptive students. One-half of the funding comes from lottery revenues and the other half from the general fund for up to \$16 million. The goal is to make one alternative school available in every school district. Next year, the Department of Education will assess the progress to see if more funds are necessary and allow schools that were not funded previously to apply for money.

Most alternative schools operate on private contributions or money from foundations. However, states can encourage schools and districts to design mediation programs. **NORTH CAROLINA's** Safe Schools Act appropriates approximately \$2.5 million for conflict resolution and peer mediation programs. School districts can apply for up to \$100,000 a year for mediation programs. In a typical program, teachers and classmates select a student to be a conflict manager. The manager receives training in problem-solving and communication skills. The peer managers work in pairs and act as mediators for disputing students. They impose no settlement, but offer a problem-solving process to help the students devise their own solutions.

*Conflict resolution and peer mediation teach students positive ways to resolve conflict.*

### State Actions

Nearly all states have enacted stricter laws to address violence and children. Legislation prohibiting handguns on school property has been passed in **ALABAMA, CONNECTICUT, DELAWARE, KENTUCKY, NEVADA, SOUTH CAROLINA, VIRGINIA** and **WASHINGTON**. Several states such as **COLORADO, KANSAS, NEVADA** and **WEST VIRGINIA** are lengthening school suspension times. A new law in **MICHIGAN** requires students who commit rape or arson or knowingly possess a dangerous weapon on or near school property to be permanently expelled from all public schools in the state. Many school districts are using metal detectors. Although providing metal detectors is a local decision, a provision of the Goals 2000: Educate America Act authorizes approximately \$50 million in FY 1994 for grants for such equipment to school districts with a high rate of violent crime. **ALABAMA, ARKANSAS, CALIFORNIA, CONNECTICUT, DISTRICT OF COLUMBIA, FLORIDA, INDIANA, KANSAS, MISSISSIPPI, NEVADA, NORTH CAROLINA** and **SOUTH CAROLINA** have hand-held metal detectors in various school districts. In **PENNSYLVANIA** public schools, fixed metal detector stations are in place, and in **ILLINOIS, LOUISIANA, MASSACHUSETTS, MICHIGAN, NEW YORK, TEXAS** and **VIRGINIA** many school districts use both hand-held and fixed-station metal detectors.

### Selected References

- Louis Harris and Associates Inc. *The Metropolitan Life Survey of The American Teacher 1993: Violence in America's Public Schools*. New York, N.Y., 1993.
- National School Boards Association. *Violence in the Schools*. NSBA Best Practices Series, 1993.

### Contact for More Information

Veronica O. White  
NCSL—Denver  
(303) 830-2200



ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510  
(907) 586-1083 • Fax (907) 586-2995

February 16, 1995

The Honorable Joe Green  
House of Representatives  
Alaska State Legislature  
Capitol Building  
Juneau, AK 99811

SUPPORT FOR HB 125  
INFORMATION DISCLOSURE ABOUT MINORS

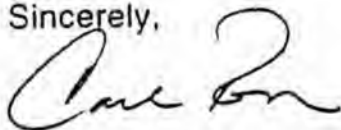
Dear Rep. Green

The Association of Alaska School Boards supports HB 125—An Act relating to disclosures to school officials of information about certain minors.

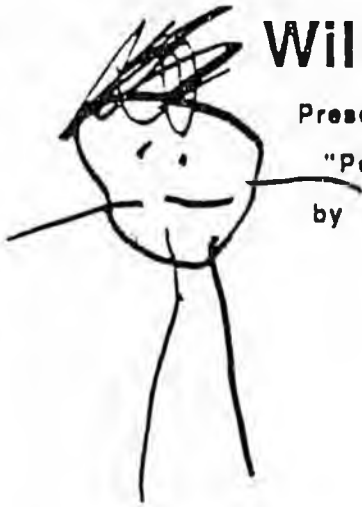
**Bill Review:** HB 125 directs the court to notify the principal of the minor's school if the offense was committed on school property or the minor has committed offenses that, if committed by an adult, would be considered a serious felony such as murder, assault, kidnapping, etc. The bill also requires law enforcement to notify the principal if there is *probable cause* to believe a minor attending their school has committed a serious felony. The school principal is allowed to disclose this information to other persons in the district, and also to a chief administrator of a school district to which a minor transfers. Law enforcement agencies are not required to notify the school if the agency determines it would jeopardize an ongoing investigation.

The Association of Alaska School Boards believes this Act will help ensure the safety of students and staff alike. As an association we endeavor to work cooperatively with agencies of government in the transfer of information on behalf of kids. In the past, however, the deterrent to meaningful intra-agency cooperation regarding severe school violence has been the issue of confidentiality. This is a welcome piece of legislation that will further help to maintain a safe school environment.

Sincerely,



Carl Rose, Executive Director



# Willard L. Bowman Elementary School

Preschool Art

"People"

by Taylor

11700 Gregory Rd.  
Anchorage, AK 99516  
345-8110

FEB 24 1995

February 20, 1995

Representative Joe Green  
Capitol Building  
Juneau, Alaska 99801-1182

Dear Representative Green:

As I consider the issues facing the children of Alaska, I'm glad you're in Juneau working to ensure that their tomorrow is a bright one. The Willard L. Bowman community would like to thank you for your continued support of the education agenda and also for taking time prior to the session to visit our school and talk to our young people. It means a lot to us to know that we have a voice in Juneau.

This letter is being written to solicit your support for early funding of the education budget and for support of an increase in the foundation formula to at least \$63,000. As I'm sure you know, this is the amount recommended by the Governor's Education Transition Team. This increase in funding will go a long way in helping to meet some of the needs we discussed when you visited our school. I urge you to support HB114, Full Funding for Education and HB139, Inflation Adjustment for the Instructional Unit Value.

Thank you for your sponsorship of HB125, Disclosure of Information on Minors, dealing with the sharing of information with school personnel about those involved in violent juvenile crime in our community. This is an important piece of legislation that will go a long way to ensure the safety of children in our schools.

If I can be of assistance to you, do not hesitate to call. I will be in Juneau later in the session representing the issues that are important to elementary school principals. I'm looking forward to chatting with you at that time.

Sincerely,

Tony Harduar, Principal  
Willard L. Bowman Elementary School



POSITION STATEMENT

HOUSE BILL NO. 125

**"An Act relating to disclosures to school officials of information about certain minors."**

The Alaska Council of School Administrators supports House Bill #125.

Incidents of violence seem to be increasing at an alarming rate among or involving Alaska's youth. This includes reports of gang activities, incidents of students bringing illegal weapons into the schools and youth committing acts of violence which could be considered a felony if they were adults.

Parents and the community rightfully expect schools to be a place students can work and learn in a safe environment. Yet, principals are experiencing increasing concern over being able to assure parents and the community that the school setting is secure and safe because of the lack of information from other agencies involved with youth who have been adjudicated delinquent.

To help ensure some safety of students, it is necessary to be aware of those students who have committed acts of violence and crime outside the school as well as inside the school. The laws of confidentiality have prevented the sharing of such information with school personnel in the past, thereby preventing school personnel from being able to take action to protect the rights of other innocent students in the school.

School administrators across Alaska believe this information is necessary to ensure proper supervision. It is also necessary to provide a relevant intervention program and this information will help provide a safer environment for all students.

Again, The Alaska Council of School Administrators supports HB #125

Stephen McPhetres  
Executive Director

# ACSA EDUCATION BULLETIN

ALASKA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS  
ALASKA ASSOCIATION OF SECONDARY SCHOOLS PRINCIPALS  
ALASKA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS  
ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS



ALASKA COUNCIL OF SCHOOL ADMINISTRATORS

JANUARY, 1995

## VIOLENCE IN ALASKAN SCHOOLS

by Spike Jorgensen  
President, AASA

One of the leading concerns of Alaska principals is violence. Violence in the form of guns, gangs, disease, abuse, and neglect. Every imaginable form of human indignity violence and crime as a part of student behavior. Student to student, adult to student, and student to adult violence takes place in the schools and communities of the state.

A major concern is that schools are being left out of the information loop. Students who commit serious crimes are in the schools and school officials are not informed by social services, law enforcement, the courts, or other schools about the situation. School can not provide help to the individual who has

committed the crime and can not safeguard the balance of the student body and staff from the dangers of seriously affected students.

If schools are held responsible as parents for the students while they are in school, the school must have the necessary information. Schools have more resources to help than any other agency in the state and the schools should not be held without information.

Just last week the number of homicides caused by firearms alone exceeded the number of deaths in automobile accidents. We are living in an ever more violent and permissive society. There is more and

more evidence to show that students learn problem solving strategies from TV violence, talk show, and soaps. It may appear real to a child, but any reasonable adult would never choose the tragedy that Arnold Schwarzenegger or Rambo would bring to family problem solving.

Please let your legislators know that schools need information about student violence from other agencies, that young students need to have less exposure to violence and school rules on anti-gang dress codes and behavior need to be supported through legislation. As you have more and better ideas, please contact Steve McPhetres. \*

## AASA BOARD OF DIRECTORS

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## STAFF

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Executive Director  
Juneau

Linda Moan  
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Juneau

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510  
(907) 586-1083 • Fax (907) 586-2995

February 16, 1995

The Honorable Joe Green  
House of Representatives  
Alaska State Legislature  
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Juneau, AK 99811

SUPPORT FOR HB 125  
INFORMATION DISCLOSURE ABOUT MINORS

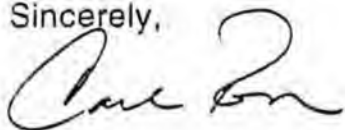
Dear Rep. Green

The Association of Alaska School Boards supports HB 125—An Act relating to disclosures to school officials of information about certain minors.

**Bill Review:** HB 125 directs the court to notify the principal of the minor's school if the offense was committed on school property or the minor has committed offenses that, if committed by an adult, would be considered a serious felony such as murder, assault, kidnapping, etc. The bill also requires law enforcement to notify the principal if there is *probable cause* to believe a minor attending their school has committed a serious felony. The school principal is allowed to disclose this information to other persons in the district, and also to a chief administrator of a school district to which a minor transfers. Law enforcement agencies are not required to notify the school if the agency determines it would jeopardize an ongoing investigation.

The Association of Alaska School Boards believes this Act will help ensure the safety of students and staff alike. As an association we endeavor to work cooperatively with agencies of government in the transfer of information on behalf of kids. In the past, however, the deterrent to meaningful intra-agency cooperation regarding severe school violence has been the issue of confidentiality. This is a welcome piece of legislation that will further help to maintain a safe school environment.

Sincerely,



Carl Rose, Executive Director

# Alaska State Legislature

LEGISLATIVE COUNCIL  
STATE OF ALASKA  
1000 EAST 14TH AVENUE  
ANCHORAGE, ALASKA 99515  
TELEPHONE: 273-3000  
FACSIMILE: 273-3000


CHAIR, RESOURCES COMMITTEE  
CHAIR, JUDICIARY COMMITTEE  
MEMBER, STATE AFFAIRS COMMITTEE

FINANCE SUBCOMMITTEES  
DEPT. OF NATURAL RESOURCES  
DEPT. OF COMMERCE & ECONOMIC DEVELOPMENT  
DEPT. OF ENVIRONMENTAL CONSERVATION

Representative Joe Green  
District 12

## Memorandum

**TO:** Members, House Judiciary Committee

**FROM:** Representative Joe Green 

**DATE:** March 29, 1995

**RE:** HB 125, "An act relating to disclosures to school officials of information about certain minors."

Violence is one of the leading problems facing Alaskan schools. Currently, there is no requirement that a school principal be given felonious records regarding a delinquent who is attending that school. Last session, the legislature passed SB 54, which addressed among other issues, the discretionary disclosure of agency records. However there has been little progress over the past 9 months to develop a protocol for the sharing of information; and there is a broad level of confusion over who may disclose what information to whom. Two statewide surveys of school officials and teachers conducted just last week indicate that very little school disclosure is taking place even though school officials are strongly in favor of such disclosure taking place as soon as possible. Some juvenile offenders who have committed violent, felonious crimes are in schools where officials and affected teachers are left out of the information loop. HB 125 was crafted and amended to help address this serious problem by requiring law enforcement and DFYS to disclose these records to appropriate school officials who are charged with providing a safe school environment for students and staff.

On March 13th and March 24th meetings were held between DFYS and various representatives from the Department of Education, the Alaska

Council of School Administrators, NEA Alaska, the Alaska Association of School Boards, the Legislature, the Department of Law, the Department of Public Safety, and the Court System. We discussed the needs and concerns of school administrators and teachers as far as information sharing about delinquent youth. From the perspective of the people representing teachers, school districts and school administrators, disclosure is not happening with any degree of regularity. They strongly expressed their desire that this necessary disclosure be mandatory. The Departments of Law and Public Safety felt that since disclosure is possible under the law passed last year, some additional time should be granted to work out this notification on a discretionary basis. All parties involved agreed that whether or not disclosure is mandatory or discretionary an effective protocol must be established to facilitate disclosure of violent youth behavior to our schools.

I agreed to propose amendments to HB 125 that would remove the mandatory disclosure portion of the bill and add language that would mandate mutually agreeable protocols be set up between DFYS, law enforcement agencies, and school officials to ensure effective methods for juvenile disclosure of felonious records to schools. It is my intent to expedite this bill as quickly as possible. It was agreed that a follow-up survey in late fall would be taken to see if the discretionary nature of the information disclosure is working. If not, it was determined that I will introduce a new bill at the beginning of next session mandating such disclosure.

HOUSE COMMITTEE REPORT

3/17/95

Judiciary

(7)  
Date Referred: January 26, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/16/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 125

HOUSE BILL NO. 125 JUVENILE CRIMINAL RECORDS TO SCHOOLS

"An Act relating to disclosures to school officials of information about certain minors."

recommends it be replaced with the following committee substitute CS HB 125 (HESS) [X] 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)

[X] fiscal note(s) AK Court System [ ] fiscal note(s) \_\_\_\_\_

[X] zero fiscal note(s) Education [ ] zero fiscal note(s) \_\_\_\_\_  
H+SS

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i> Rokeberg				✓
<i>[Signature]</i> G. Davis			✓	
<i>[Signature]</i> Bunde	✓			
<i>[Signature]</i> TOOHEY	✓			
<i>[Signature]</i> ROBINSON				✓
	(a)		(1)	(2)

CHAIR'S SIGNATURE *[Signature]*  
Bunde

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Bill Version: CSHB 125(HES)  
(H) Publish Date: 3/17/95

Revision Date: \_\_\_\_\_  
Title: Relating to Disclosures to school officials  
of information about certain minors  
Sponsor: Representatives Green, Toohy, Bunde  
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#): 255,258,254

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
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						
----------------------	--	--	--	--	--	--

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

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
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)

There would be no fiscal impact for the Division if this bill were to become law.

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: 02.22/95  
Date: 2/22/95

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# FISCAL NOTE

No. 2

Bill Version: CSHB 125(HES)

(H) Publish Date: 3/17/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Title: Juvenile Criminal Records to Schools

Department Affected: Education

BRU: Executive Administration

Component: Commissioner's Office

Sponsor: Representative Green

Requester: Representative Green

COMPONENT SERIAL NO. 185

**Expenditures/Revenues:**

(Thousands of Dollars)

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

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

REVENUE FUND SOURCE:						
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**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	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

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

House Bill 125 clarifies when state and municipal law enforcement agencies and the Alaska Court System are required to disclose information to public or private elementary and secondary schools regarding minors who commit offenses. Passage of this legislation will have no fiscal impact on the Department of Education.

Prepared by: Sheila Peterson, Special Assistant

Phone: 465-2803

Division: Commissioner's Office

Date: 2/1/95

Approved by Commissioner: \_\_\_\_\_

Jerry Covey

Agency: Education

Date: \_\_\_\_\_

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# FISCAL NOTE

No 1

Bill Version: CSHB 125(HES)

(H) Publish Date: 3/17/95

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_  
 Title: Disclosures to school officials  
 Sponsor: Rep. Green  
 Requestor: \_\_\_\_\_

Dept. Affected: Alaska Court System  
 BRU: Trial Courts  
 Components: \_\_\_\_\_  
 COMPONENT SERIAL NO. 768

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

OPERATING EXPENDITURES	FY 98	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	7.5	7.5	7.5	7.5	7.5	7.5
TRAVEL						
CONTRACTUAL	0.1	0.1	0.1	0.1	0.1	0.1
SUPPLIES	0.1	0.1	0.1	0.1	0.1	0.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
<b>TOTAL OPERATING</b>	<b>7.7</b>	<b>7.7</b>	<b>7.7</b>	<b>7.7</b>	<b>7.7</b>	<b>7.7</b>

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

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	7.7	7.7	7.7	7.7	7.7	7.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>7.7</b>	<b>7.7</b>	<b>7.7</b>	<b>7.7</b>	<b>7.7</b>	<b>7.7</b>

**POSITIONS**

FULL-TIME						
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: 02/22/95

Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]* 137  
 Agency: Alaska Court System Date: 02/22/95

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09:32 AM  
 Rev 1/95

Page 1 of 3

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Alaska Court System  
Fiscal Analysis  
HB 125

HB 125 provides that if a minor who has been adjudicated delinquent is enrolled in school, the clerk of the court in which the adjudication order is entered shall transmit a copy of the court's adjudication order to the principal of the minor's school if the minor has been adjudicated delinquent for committing an offense on the school's property, or if the minor has been adjudicated delinquent for certain felonies or misdemeanors. These include felonies under AS 11.41; felonies under AS 11.46.100 - 11.46.490; felonies under AS 11.71; and felonies or misdemeanors involving the possession or use of a deadly weapon.

The clerk of court is further required to provide a notice to the principal that the copy of the order may not be disclosed except as provided in AS 47.10.093(h), and is required to maintain a record of the release.

According to statistics provided by the Division of Family and Youth Services (DFYS), in FY 94 approximately 295 minors were adjudicated delinquent for the offenses listed above. An large but indeterminate number were also adjudicated delinquent for offenses committed on school property; these include a variety of misdemeanors such as minor consumption and trespass. This note assumes that clerks of court will be required to determine if a minor is subject to HB 125 and notify school principals approximately 350 times per year.

Alaska Court System

Fiscal Analysis

HB 125

Amount

Personal Services

This legislation will require clerical staff to research case files, prepare forms and mail notices to school officials. The procedures required by this legislation will not require additional staff, but will require the payment of overtime to the clerical staff. The current personal services authorization is not adequate to cover the cost of the additional overtime compensation.

\$7,500

Contractual

Postage to mail 350 notices

112

Supplies

Envelopes, forms and duplicator supplies

100

Total estimated cost

\$7,712

**HB**

**127**

Representative Pete Kelly

New Sections 1.2.3. and 4. Addition of correctional nurses:

The existing language in AS 12.55.135(d) uses the phrase "correctional officer. Nurses who treat prisoners without benefit of additional guards or adequate backup are not "correctional officers."

We found that the portion of the statutes covering aggravating factors for sentencing options by judges did not use the term "correctional officer" but rather used the term "correctional employee."

AS 12.55.155 Factors in aggravation and mitigation.

(c) (13) the defendant knowingly directed the conduct constituting the offense at an active officer of the court or at an active or former judicial officer, prosecuting attorney, law enforcement officer, **correctional employee**, fire fighter, emergency technician, paramedic, ambulance attendant, or other emergency responder during or because of the exercise of official duties.

We chose to substitute the phrase "correctional employee" for the existing "correctional officer." This accomplishes our objective of including correctional nurses, and also makes the statutes more consistent. With this adoption AS 12.55.125, AS 12.55.135, and AS 12.55.155 all include the phrase "correctional employee" instead of "correctional officer."

New Section 6. Addition of parole/probation officers:

Parole/probation officers receive police training and certification. They are clearly identified to the parolees or probationers they are involved with. However, extensive discussions with Legislative Legal's Jerry Luckhaupt, and the Department of Law's, Laurie Otto, concluded that the definition of "peace officer" constructionally related to AS 12.55.135 did not include parole/probation officers.

To include parole/probation officers in HB 127 we selected a specific definition of "peace officer" found under AS 11.81.900.

AS 11.81.900 (b)(38) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests. whether the duty extends to all offenses or is limited to a specific class of offenses or offenders.

Date: March 17, 1995  
For: House Judiciary Committee  
By: Representative Pete Kelly

## CS HB 127F

### Chart: Sectional Analysis

Section 1	AS 12.55.125(a)	"correctional employee"
Section 2	AS 12.55.125(c)	"correctional employee"
Section 3	AS 12.55.125(d)	"correctional employee"
Section 4	AS 12.55.125(e)	"correctional employee"
Section 5	AS 12.55.135(d)	The original bill.
Section 6	AS 11.81.900	Definition of "police officer."

9-LS0501NF  
Luckhaupt  
3/10/95

*Didn't define  
Correctional  
ec  
Bec  
AS 12.55.55(c)(13)  
uses it  
hasn't been  
problem*

CS FOR HOUSE BILL NO. 127( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE KELLY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to penalties for certain offenses committed against a peace  
2 officer, fire fighter, correctional employee, emergency medical technician, paramedic,  
3 ambulance attendant, or other emergency responders."

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

5 \* Section 1. AS 12.55.125(a) is amended to read:

6 (a) A defendant convicted of murder in the first degree shall be sentenced to  
7 a definite term of imprisonment of at least 20 years but not more than 99 years. A  
8 defendant convicted of murder in the first degree shall be sentenced to a mandatory  
9 term of imprisonment of 99 years when

10 (1) the defendant is convicted of the murder of a uniformed or  
11 otherwise clearly identified peace officer, fire fighter, or correctional employee  
12 [OFFICER] who was engaged in the performance of official duties at the time of the  
13 murder;

14 (2) the defendant has been previously convicted of

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(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110; or

(3) the court finds by clear and convincing evidence that the defendant subjected the murder victim to substantial physical torture.

\* Sec. 2. AS 12.55.125(c) is amended to read:

(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;

(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee [OFFICER], emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven years;

(3) if the offense is a second felony conviction, 10 years;

(4) if the offense is a third felony conviction, 15 years.

\* Sec. 3. AS 12.55.125(d) is amended to read:

(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 -

1 12.55.175:

2 (1) if the offense is a second felony conviction, four years;

3 (2) if the offense is a third felony conviction, six years;

4 (3) if the offense is a first felony conviction, and the defendant  
5 knowingly directed the conduct constituting the offense at a uniformed or otherwise  
6 clearly identified peace officer, fire fighter, correctional employee [OFFICER],  
7 emergency medical technician, paramedic, ambulance attendant, or other emergency  
8 responder who was engaged in the performance of official duties at the time of the  
9 offense, two years.

10 \* Sec. 4. AS 12.55.125(e) is amended to read:

11 (e) A defendant convicted of a class C felony may be sentenced to a definite  
12 term of imprisonment of not more than five years, and shall be sentenced to the  
13 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -  
14 12.55.175:

15 (1) if the offense is a second felony conviction, two years;

16 (2) if the offense is a third felony conviction, three years;

17 (3) if the offense is a first felony conviction, and the defendant  
18 knowingly directed the conduct constituting the offense at a uniformed or otherwise  
19 clearly identified peace officer, fire fighter, correctional employee [OFFICER],  
20 emergency medical technician, paramedic, ambulance attendant, or other emergency  
21 responder who was engaged in the performance of official duties at the time of the  
22 offense, one year,

23 (4) if the offense is a first felony conviction, and the defendant violated  
24 AS 08.54.520(a)(7) - (10), one year.

25 \* Sec. 5. AS 12.55.135(d) is amended to read:

26 (d) A defendant convicted of assault in the fourth degree upon a uniformed or  
27 otherwise clearly identified peace officer, fire fighter, correctional employee  
28 [OFFICER], emergency medical technician, paramedic, ambulance attendant, or other  
29 emergency responder who was engaged in the performance of official duties at the  
30 time of the assault shall be sentenced to a minimum term of imprisonment of 120 [30]  
31 days.

1 \* Sec. 6. AS 12.55.185 is amended by adding a new paragraph to read:

2 (14) "peace officer" has the meaning given in AS 11.81.900.

3 \* Sec. 7. This Act applies to all offenses committed on or after the effective date of this

4 Act.

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 30, 1995

**SUBJECT:** Sectional Summary of HB 127. (Work Order No. 9-LS0501A)

**TO:** Representative Pete Kelly

**FROM:** Gerald P. Luckhaupt *JPL*  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill increase the mandatory minimum jail term for assault in the fourth degree committed against a "peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder" from 30 days to 120 days.

Section 2 of the bill provides an applicability section.

GPL:glc  
95-098.glc



# Alaska State Legislature

## House

Official Business

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

Representative Pete Kelly

### Sponsor Statement

House Bill 127

Bill: "An Act increasing the minimum term of imprisonment for assaults in the fourth degree committed against a peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responders."

It is the intent of this bill to enhance a serious tool for police officers and others on the front line. It will increase the severity of punishment for acts committed against a police officer while in the performance of official duties.

This bill sends a clear message to individuals that once the police arrive the fight must stop. Alaska is not sending in our "tag team blue" for the next round. Expanding the fracas to include a police officer will result in jail time.

This bill also discourages an officer from "engaging in a fair fight." There is no reason for such a fight to continue, and this bill makes that quite clear.

Although initially intended as a tool for police, it has even more meaning when applied to individuals with even less training or expectation of dealing with persons physically. Volunteers responding to a medical emergency, or fire are neither equipped nor trained to handle assault or violence directed against their persons.

# Alaska State Legislature

REPRESENTATIVE  
PETER KELLY

Mailing Address:  
119 N. Cushman, Suite 203  
Fairbanks, Alaska 99701  
(907) 456-8161



While in Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-2327

House District 31

## House Of Representatives

February 27, 1995

House Judiciary Committee  
The Honorable  
Brian Porter, Chairman

### HB 127

#### Fiscal Note Summary:

<u>Department</u>	<u>Dollars</u>
Corrections	64.2
Law	0
Public Safety	0
Total	64.2



# ALASKA STATE EMPLOYEES ASSOCIATION

AFSCME Local 52, AFL-CIO

February 27, 1995

The Honorable Representative Pete Kelly  
State Capital Building  
Juneau, Alaska 99801

Dear Representative Kelly,

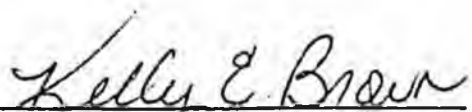
As the prime sponsor of House Bill 127, I am writing to request your consideration of an Amendment to this legislation that would include Adult Probation Officers, Juvenile Probation Officers, Fish and Wildlife Protection Officers and Nurses who work in Correctional Institutions.

It is my opinion that these state employees are at risk of assault from persons that they serve in their professional capacities. As the President of Alaska State Employees Association, I want to ensure that members of ASEA who are at risk as a result of their employment, are protected under this statute. That protection will come in the form of deterrence of criminal behavior directed against them and prosecution when an assault does occur.

The amendment I am requesting could be added during hearings on this legislation before either the House Judiciary Committee or the House Finance Committee. Additionally, I would welcome the opportunity to discuss with you the specific language contained in this proposed amendment.

Thank you for your consideration of this legislative amendment request to House Bill 127. I can be reached at the number above at your earliest convenience.

Sincerely,

  
Kelly E. Brown, President  
Alaska State Employees Association  
American Federation of State, County  
and Municipal Employees, Local 52

**ANCHORAGE OFFICE**  
3510 Spenard Road, Suite 110  
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**FAIRBANKS OFFICE**  
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Fairbanks, AK 99701  
(907) 452-2300 FAX (907) 452-2307  
TOLL free: 800-478-2305

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

NO.         
Bill version: HB 127  
(H) Publish Date: 2/22/95

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
Title: Bill Act increasing the minimum term of  
imprisonment for assaults against a peace officer. Component: Alaska State Troopers  
Sponsor: Representative Kelly  
Requestor: (H) State Affairs COMPONENT SERIAL NO. 0799

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

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

FUNDING: (Thousands of Dollars)

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)  
No significant fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691  
Division: Alaska State Troopers Date: 02/02/95  
Approved by Commissioner: *Ronald L. Orta* Date: 2/10/95  
Agency: Ronald L. Orta, Dept. of Public Safety

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# FISCAL NOTE

NO. \_\_\_\_\_  
 E /ersion: HB 127  
 (H) Publish Date: 2/22/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: ...assaults in the fourth degree committed against BRU: Prosecution  
a peace officer, fire fighter, correctional officer... Component: All  
 Sponsor: Representative Kelly  
 Requester: Representative Kelly COMPONENT SERIAL NO. 0085-0090

**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						
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CHANGE IN REVENUES						
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**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	0.01	0.01	0.01	0.01	0.01	0.01
PART-TIME						
TEMPORARY						

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

This bill amends AS 12.55.135(d) to increase the minimum term of imprisonment from 30 days to 120 days for a person convicted of assault in the fourth degree for assaulting a peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the assault. This is a sentencing provision that will not have a fiscal impact on the Department of Law.

Prepared by: Richard I. Peques, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2/13/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/13/95  
 Agency: Department of Law

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# FISCAL NOTE

No. 1  
 B Version: HB 127  
 (H) Publish Date: 2/22/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act increasing the minimum term .....assult on BRU: Statewide Operations  
peace officers.... Component: All Institutions  
 Sponsor: Rep. Kailv  
 Requester: Rep. Kailv COMPONENT SERIAL NO. \_\_\_\_\_

**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	64.2	64.2	64.2	64.2	64.2	64.2
<b>TOTAL OPERATING</b>	<b>64.2</b>	<b>64.2</b>	<b>64.2</b>	<b>64.2</b>	<b>64.2</b>	<b>64.2</b>

CAPITAL EXPENDITURES

CHANGE IN REVENUES

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	64.2	64.2	64.2	64.2	64.2	64.2
1005 GF/Program Receipts						
1006 GF-MHTIA						
Other						
<b>TOTAL</b>	<b>64.2</b>	<b>64.2</b>	<b>64.2</b>	<b>64.2</b>	<b>64.2</b>	<b>64.2</b>

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

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary!

This bill would increase the minimum sentence for assault defined in AS 12.55.135 (d) from 30 to 120 days imprisonment.

Because this offense involves assault on a clearly identified peace officer, fire fighter or other justice or emergency personnel, these individuals would serve their enhanced sentence in a correctional facility at a cost of \$107.00 per day. Allowing for good time accounting, each inmate affected would serve an additional 60 days at \$107 per day or \$6,420.00. Data concerning assaults on this group are not kept separate from other assaults, however, contacts with the Dept. of Law and Dept. of Public Safety indicate the number is small; perhaps 10 to 12.

$60 \times 10 \times \$107 = \$64,200.00$  annual cost of increase in minimum sentence.

Prepared by: Jerry Shriner  
 Division: Commissioner's Office  
 Approved by Commissioner: [Signature]  
 Agency: Department of Corrections

Phone: 465-4640  
 Date: 2/8/95  
 Date: 2/8/95

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**F. USE COMMITTEE REPORT**

2/22/95

(7)  
Date Referred: January 27, 1995

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: Feb 21, 1995

The STATE AFFAIRS Committee considered:

HB 127

HOUSE BILL NO. 127

120-DAY JAIL: ASSAULT ON OFFICERS

"An Act increasing the minimum term of imprisonment for assaults in the fourth degree committed against a peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responders."

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)  
[x] fiscal note(s) corrections [ ] fiscal note(s) \_\_\_\_\_

2) [x] zero fiscal note(s) law [ ] zero fiscal note(s) \_\_\_\_\_  
Public Safety

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Brandon Porter</i>	Porter	✓			
<i>Cheryl Green</i>	Green	✓			
<i>Ed Ivan</i>	Ivan	✓			
<i>Caren Robinson</i>	Robinson	✓			
<i>Ed Willis</i>	Willis	✓			
<i>Seth Ogan</i>	Ogan	✓			
<i>Jeanette James</i>	James	✓			
		(7)			

CHAIR'S SIGNATURE Jeanette James  
James

**HB**

**130**

# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

**BILL NO:** HB 27

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An Act directing the Department of Public Safety to establish and maintain a deoxyrib....." BRU: STATEWIDE  
 Sponsor: Pamell Component: Alaska Criminal Records and Identification  
 Requestor: Judiciary COMPONENT SERIAL NO. 1190

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

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	3.0	3.0	3.0	3.0	3.0	3.0
TRAVEL						
CONTRACTUAL	5.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>8.0</b>	<b>3.0</b>	<b>3.0</b>	<b>3.0</b>	<b>3.0</b>	<b>3.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	8.0	3.0	3.0	3.0	3.0	3.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>8.0</b>	<b>3.0</b>	<b>3.0</b>	<b>3.0</b>	<b>3.0</b>	<b>3.0</b>

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.)**

SEE ATTACHED ANALYSIS

Prepared By: Ken Bischoff Phone: 465-4336  
 Division: Administrative Services Date: January 24, 1995  
 Approved by Commissioner: *[Signature]* Date: January 24, 1995  
 Agency: for Ronald L. Otte, Dept. of Public Safety

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ANALYSIS  
HB 27

The assumptions upon which this fiscal note is based fall into two categories as discussed more fully below:

Costs for R&I personnel to verify and update APSIN DNA criminal history flag;

It is estimated that there are approximately 300 convicted sexual offenders annually.

Cost Summary:

Personal services costs the first year are for data entry, revising procedures and training data entry personnel. Continuing costs are for verification and data entry.

Contractual costs are requested to modify the fingerprint card tracking system to capture, maintain status and provide statistical reports.

# Alaska State Legislature

REPRESENTATIVE  
PETER KELLY

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Fairbanks, Alaska 99701  
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While in Juneau  
State Capitol  
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House District 31

## House Of Representatives

### Committee Substitute for HB 130 Sponsor Statement

The creation of regulations heretofore have been carried out within the bureaus of state government beyond the light of public scrutiny. Though public input has always been a part of the regulation process, the system is inherently flawed. Regulations have the force of law, but in our form of government law must emanate from the people through their elected officials, and therein lies the flaw. In the current system the unelected regulation writers have the last word in the process, not the people. HB 130 attempts to remedy this by bringing elected officials back into the loop and making them politically accountable to the people for the regulations that impact their lives.

HB 130 enables the Legislature's "Administrative Regulation Review Committee" to provide comments directly to the lieutenant governor. The lieutenant governor may return regulations to agencies for incorporation of comments by the Administrative Regulation Review Committee. The lieutenant governor will bear the spotlight of public opinion for regulations.

The lieutenant governor is the one individual in the executive branch of government who cannot be fired by the governor, who is not beholden to any agency of the bureaucracy, and yet is responsible for his/her job to the entire population of the state.

Individuals impacted by regulations often feel their comments and input to agencies is ignored. At present, agencies are only required to hold public hearings. It is important for the public to be able to see how an agency accommodates or responds to their comments. Did the agency understand and address the concerns expressed by the public in the public comment period?

HB 130 adds guidance and direction for agency review and response to public comments. Statutory guidance allows agencies to demonstrate their accommodation and response to public comment. It reveals an agency's thought process.

#### Intent:

The goal of HB 130 is to focus agencies efforts and talents to the execution and administration of the laws, leaving the measuring or weighing of public will or public interest to the peoples representatives in the legislature.

# Alaska State Legislature

REPRESENTATIVE  
PETER KELLY

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White in Juneau  
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House District 31

## House Of Representatives

March 20, 1995

House Judiciary  
The Honorable  
Brian Porter, Chairman

### Fiscal Note Summary:

<u>Department</u>	<u>Dollars</u>
Administration	0
Governor - Lieutenant Governor	73.7
Governor - Office of Management & Budget	38.4
Governor - Human Rights Commission	40.0
Governor - Elections	0
Department of Commerce & Econ. Dev.	0
DCED / Occupational Licensing	152.3
DCED / Insurance	50.0
DCED Alaska Public Utilities Commission	30.4
Department of Education	37.8
Department of Health and Social Services	74.2
Department of Fish and Game, limited entry.	15.0
Department of Law	0
Department of Public Safety	10
Department of Natural Resources	0
Total	521.8

# Alaska State Legislature

REPRESENTATIVE

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While in Juneau

State Capitol

Juneau, Alaska

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House District 31

## House Of Representatives

### HB 130 Sponsor Statement

The creation of regulations heretofore have been carried out within the bureaus of state government beyond the light of public scrutiny. Though public input has always been a part of the regulation process, the system is inherently flawed. Regulations have the force of law, but in our form of government law must emanate from the people through their elected officials, and therein lies the flaw. In the current system the unelected regulation writers have the last word in the process, not the people. HB 130 attempts to remedy this by brining elected officials back into the loop and making them politically accountable to the people for the regulations that impact their lives.

HB 130 slows the regulation process and enables the lieutenant governor to return regulations to agencies, by law. The lieutenant governor will no longer have a "ministerial and mandatory" role in regulations. With the authority to return regulations, the lieutenant governor will also bear the spotlight of public opinion for regulations.

AS 44.62.040 (f) "After receiving comments [from the legislature's review committee] the lieutenant governor **may return the proposed regulation . . . without . . . filing.**"

The lieutenant governor is also required to provide the Legislature's "Administrative Regulation Review Committee" with copies of draft regulations. The Committee will be able to identify controversial regulations and bring recommendations back to the lieutenant governor prior to a regulation being filed. Reviewing proposed regulations brings elected officials further into the regulation process.

AS 44.62.040 (d) requires the lieutenant governor to submit **proposed** regulations, the agencies written determinations following public comment, and the Department of Law's findings, to the Legislature's Administrative **Regulation Review Committee**.

AS 44.62.040 (e) The Committee has 90 days to **review the proposed regulations**, discuss them with experts and provide comments to the lieutenant governor.

The response from the regulation review committee, as well as the findings of the lieutenant governor can lead him/her to file the regulations or return them to the agency without filing. The importance of placing this responsibility in the hands of the single individual in the lieutenant governor's office cannot be underestimated. This is the one individual in the executive branch of government who cannot be fired by the governor, who is not beholden to any agency of the bureaucracy, who can add a "common sense review" to the regulation, and yet is responsible for his/her job to the entire population of the state.

Individuals impacted by regulations often feel their comments and input to agencies is ignored. At present, agencies are only required to hold public hearings. Once a hearing is held the proposed regulation is re absorbed into the bowels of the bureaucracy only to reappear in its "final" form at the lieutenant governor's office. The Department of Law's review, as well as the agencies internal review is not, of course, open to the public, nor should it be. The addition of the lieutenant governor and the Legislature's Regulation Review Committee to the review loop allows elected officials to review the regulation in its final form, but before it is filed.

Equally important is the need for the public to be able to see how an agency accommodates or responds to their comments. Did the agency understand and address the concerns expressed by the public in the public comment period?

HB 130 adds guidance and direction for agency review and response to public comments. Statutory guidance allows agencies to demonstrate their accommodation and response to public comment. It reveals an agencies thought process, and it allows the public to see into the inner workings of the administrative rule makers.

AS 44.62.215 requires an agency to utilize or reply to **factual, substantive and relevant** public comment. It also prohibits an agency from "**weighing**" public sentiment or other non-factual comment, making the regulatory process less "legislative" in nature.

The impact of regulations also needs to be explained by the agency. HB 130 requires an agency to submit a written determination of the proposed regulations impact to the State, and to the affected individuals. A clear means of attaining, or complying with the regulation is also necessary. If an agency is able to promulgate regulations or standards that are not achievable then the agency may be "taking" or virtually outlawing the endeavor it is supposed to be regulating.

AS 44.62.215(b): Before adopting a regulation an agency must estimate the **cost of compliance, the public benefits, the economic effect** of the regulation, and determine that there is an **economically achievable means of complying** with the regulation.

The goal of HB 130 is to focus agencies efforts and talents to the execution and administration of the laws, leaving the measuring or weighing of public will or public interest to the legislature.

**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 31, 1995

**SUBJECT:** Sectional summary of HB 130 (Work Order No. 9-LS0130\G)

**TO:** Representative Pete Kelly  
Attn: Bruce

**FROM:** <sup>TB</sup> Theresa Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 gives the Administrative Regulation Review Committee (ARRC) the power to examine proposed regulations, amendments, and orders of repeal submitted to it by the lieutenant governor under sec. 44.62.040(c).

Section 2 adds new subsections to sec. 44.62.040.

Sec. 44.62.040(c) requires an agency submitting regulations, amendments, or orders of repeal to the lieutenant governor to include the agency's written determinations made under sec. 44.62.215(b) and the Department of Law statement prepared under sec. 44.62.060(b).

Sec. 44.62.040(d) requires the lieutenant governor, within 30 days of receipt, to submit proposed regulations, amendments, and orders of repeal, the agency's required determinations, and the Department of Law statement to the ARRC for its comments on whether the proposed regulatory actions conform to the intent of the authorizing statute and whether the agency complied with sec. 44.62.215.

Sec. 44.62.040(e) directs the ARRC to provide its comments to the lieutenant governor within 90 days after receipt. Requires the committee to notify the lieutenant governor within 30 days if the committee needs more time. Authorizes the committee to consult with experts when preparing its comments.

Sec. 44.62.040(f) allows the lieutenant governor to return the proposed regulations, amendments, or orders of repeal to the proposing agency after receiving the ARRC comments and without finalizing the proposed regulatory actions.

Representative Pete Kelly

January 31, 1995

Page 2

Section 3 clarifies that the regulation drafting manual prepared by the Department of Law is not meant to cover the style and forms of the proposed regulations submitted by the lieutenant governor to the ARRC under sec. 44.62.040(d).

Section 4 prohibits the lieutenant governor from finalizing regulations, amendments, or orders of repeal unless they are accompanied by the agency determinations under sec. 44.62.215(b) and the Department of Law statement of approval.

Section 5 requires the Department of Law to prepare its statement of approval or disapproval within 60 days unless it notifies the lieutenant governor and the agency that it needs more time.

Section 6 adds a new section.

Sec. 44.62.215(a) establishes how an agency is to handle different types of public comment on proposed regulations, amendments, and orders of repeal. Prohibits an agency from weighing, evaluating, or otherwise using comment that is nonfactual or an expression of preference about the need for, coverage, or policy of the proposed regulatory action. Requires an agency to weigh, evaluate, or otherwise use public comment that consists of facts or other substantive information that is relevant to the accuracy, coverage, or contents of the proposed regulatory action. Directs an agency to provide a written explanation of its use or rejection of the relevant factual or substantive public comment.

Sec. 44.62.215(b) requires an agency to make certain written determinations before adopting a regulation, an amendment, or an order of repeal. The subsection lists these determinations.

Sec. 44.62.215(c) clarifies that an agency's written explanations and determinations required by the section are public records. Requires the agency to provide a copy upon request.

Section 7 exempts emergency regulations from certain requirements of the bill.

Section 8 makes some technical changes to indicate the relationship between the duration of emergency regulations and certain requirements of the bill.

If I may be of further assistance, please advise.

TLB:glc  
95-106.glc

B

--CORRECTED--

HOUSE COMMITTEE REPORT

3/22/95

(7)

JAN 27

Date Referred: March 20, 1995

FURTHER REFERRALS:

Judiciary  
Finance

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

The STATE AFFAIRS Committee considered:

HB 130

HOUSE BILL NO. 130

REGULATION ADOPTION PROCEDURES & REVIEW

"An Act relating to agency review of public comment on the adoption, amendment, and repeal of regulations; relating to the examination of proposed regulations, amendments of regulations, and orders repealing regulations by the Administrative Regulation Review Committee and the Department of Law; relating to the submission to, and acceptance by, the lieutenant governor of proposed regulations, amendments of regulations, and orders repealing regulations; and requiring agencies to make certain determinations before adopting regulations, amendments of regulations, or orders repealing regulations."

recommends it be replaced

with the following committee substitute

CS HB 130 (sta)

[ ] the same title

[X] 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)

(6) [X] fiscal note(s) (3) Gov., HESS,

Law (indeterminate), P.S. 3/20/95

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

(3) [X] zero fiscal note(s)

Admin., Gov.

DNR 3/20/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	James	✓			
	Porter	✓			
	ROBINSON				✓
	Green			✓	
	IVAN			✓	
		(2)		(2)	(1)

CHAIR'S SIGNATURE

James

HOUSE COMMITTEE REPORT

3/20/95

(7)

Date Referred: January 27, 1995

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: March 18

The STATE AFFAIRS Committee considered:

HB 130

HOUSE BILL NO. 130

REGULATION ADOPTION PROCEDURES & REVIEW

"An Act relating to agency review of public comment on the adoption, amendment, and repeal of regulations; relating to the examination of proposed regulations, amendments of regulations, and orders repealing regulations by the Administrative Regulation Review Committee and the Department of Law; relating to the submission to, and acceptance by, the lieutenant governor of proposed regulations, amendments of regulations, and orders repealing regulations; and requiring agencies to make certain determinations before adopting regulations, amendments of regulations, or orders repealing regulations."

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)

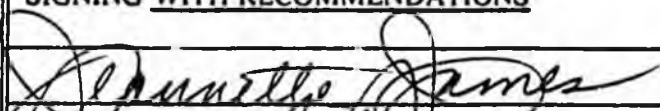

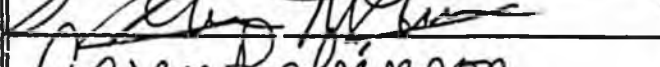
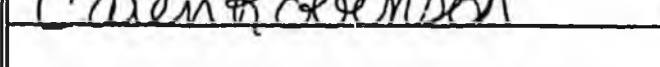
APPROVES PREVIOUS: (Dept/Date)

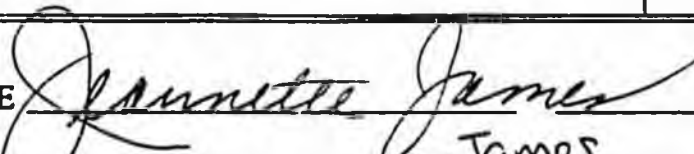
(2) 1 fiscal note(s) (3) Gov, HESS,  
Law (indeterminate), P.S.

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

(3) 1 zero fiscal note(s) Admin  
Gov, DNR

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

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	JAMES	✓			
	GREEN			✓	
	IVAN			✓	
	ROBINSON				✓
		(1)		(2)	(1)

CHAIR'S SIGNATURE   
James

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: \_\_\_\_\_  
 Title: Regulation Adoption Procedures and Review  
 Sponsor: Representative Kelly  
 Requestor: \_\_\_\_\_

Department Affected: Commerce and Economic Development  
 BRU: Banking, Securities and Corporations  
 Component: Banking, Securities and Corporations  
 COMPONENT SERIAL NO. 1233

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
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<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

**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.)

Prepared by: Willis F. Kirkpatrick, Director  
 Division: Banking, Securities and Corporations  
 Approved by Commissioner: William L. Hensley  
 Agency: Commerce and Economic Development

Phone: 465-2521  
 Date: \_\_\_\_\_  
 Date: 2/19/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: 2/7/95 Dept. Affected: Fish and Game  
 Title: Agency review of public comment on the adoption, amendment, and repeal of regulations BRU: Commercial Fisheries (Limited) Entry Commission  
 Component: Limited Entry Program Administration  
 Sponsor: Rep. Kelly  
 Requester: Rep. Kelly COMPONENT SERIAL NO. 0471

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	30.1	15.0	15.0	15.0	15.0	15.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>30.1</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	30.1	15.0	15.0	15.0	15.0	15.0
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>30.1</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>

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

**POSITIONS**

FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached page.

Prepared By: Roger Kolden Phone: 789-8160  
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 2/17/95

Approved by Commissioner: Frank Homan Date: 2/17/95  
 Agency: Commercial Fisheries (Limited) Entry Commission

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**HB 130      Fiscal Note Analysis:**

CFEC regulates commercial fishing in Alaska in accordance with AS 16.43. All CFEC regulatory proposals are extensively reviewed by the public before a decision is made to adopt or not to adopt the proposals.

CFEC always considers the impact of a proposed regulation on the fishing industry, when adopting regulations that achieve the statute's purposes. Under the extensive requirements of HB 130, we would need to devote considerably more resources to estimating the benefits, costs, and economic impacts of each regulatory proposal.

Each year, CFEC must add or amend many regulations. Each proposed regulatory change requires a public review process. For example, CFEC must adopt regulations to limit additional fisheries, to place moratoria on new entrants into fisheries, to develop hardship ranking systems to allocate permits in newly limited fisheries, and to establish application periods for permits in newly limited fisheries. Additionally, CFEC often needs to change regulations related to fishery definitions, permanent and emergency permit transfer requirements, other reporting requirements, administrative procedures, permit fees and user fees for sundry services. Moreover, new legislation and court decisions sometimes require extensive regulatory changes.

Some of these regulatory changes can be classified as "housekeeping" and may have very little impact on anyone, while others are of a more significant nature and may have a substantial effect in terms of benefits, costs, and economic impacts. We recently estimated that in 1994 our Law Specialist needed to devote 30% of her time on different tasks related to the Commission's regulations and regulatory proposals. Many other staff persons can be involved in the development of proposed regulatory changes and/or the extensive public review process for such proposals.

Estimating the benefits, costs, and economic impacts of each regulatory change will impose an additional burden on our agency. We think that we will need a part-time regulatory economist/ accountant type position to help make the estimates and prepare the supporting documents for our agency. Some regulations will require more detailed economic analysis than others. In some cases these analyses may need to be very extensive and complex.

The first estimates under this proposed law may be more costly than subsequent estimates. We believe that the regulatory economist/accountant should be able to develop methodologies and estimating standards for various types of regulatory proposals that will hopefully make subsequent estimates easier.

**First Year Additional Cost of HB 130:**

Part-Time Economist II or equivalent position for 6.0 months.

**Subsequent Years Additional Cost of HB 130:**

Part-Time Economist II or equivalent position for 3.0 months.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: \_\_\_\_\_

Department Affected: Education

Title: Regulation Adoption Procedures and Review

BRU: Executive Administration

Sponsor: Representative Kelly

Component: Commissioner's Office

Requester: House State Affairs Committee

COMPONENT SERIAL NO. 185

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	22.8	22.8	22.8	22.8	22.8	22.8
TRAVEL						
CONTRACTUAL	15.0	15.0	25.0	25.0	15.0	15.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>37.8</b>	<b>37.8</b>	<b>37.8</b>	<b>37.8</b>	<b>37.8</b>	<b>37.8</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE:</b>						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>37.8</b>	<b>37.8</b>	<b>37.8</b>	<b>37.8</b>	<b>37.8</b>	<b>37.8</b>

**POSITIONS:**

<b>FULL-TIME</b>						
<b>PART-TIME</b>	1					
<b>TEMPORARY</b>						

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

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

This fiscal note reflects the hiring of a part-time employee, as well as contracting for economic expertise with the *Institute of Social and Economic Research*. Please see the attached sheet for further analysis.

Prepared by: Harry Gamble, Education Administrator Phone: 465-2851

Division: Commissioner's Office Date: March 13, 1995

Approved by Commissioner:  Shirley Holloway

Agency: Education Date: March 13, 1995

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House Bill 130 would require a regulatory agency to develop a compliance cost estimate for each proposed regulation, as well as to determine the economic effect of the proposed action on the economy of the state.

As HB 130 is currently written, providing a meaningful cost analysis of the regulations proposed by the State Board of Education will be hard to prepare. For example, if the department amends a regulation requiring physical examinations for teachers, it would be difficult for an individual to estimate the cost of the compliance for each. Some would receive a portion of costs through medical care, others through public health services, others at full cost, etc. Costs would differ in each community, between physicians, and perhaps other variables. Staff would need to make best-guess assumptions, explore all alternatives, and attempt to arrive at a reasonable, verifiable cost that would be defensible in the legal arena. This process would be very laborious and time-consuming.

The State Board of Education currently proposes approximately twenty different regulations annually. The department estimates that an additional .5 FTE would be necessary to adequately address the new responsibilities outlined in HB 130. It would be extremely difficult for the department to address the requirements of HB 130 without this additional staff person.

The department estimates that approximately three regulation projects may need additional technical expertise to determine the *economic effect* of a regulation. As the department does not have an economist on staff, the most efficient way to meet the new requirements would be to contract with an economic consultant. The Institute of Social and Economic Research estimates a cost of \$5.0 per regulation projects.

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.

02/22/95	Position Information Inquiry/Update	09:35:50
Position: 05-05#010	Project: 0_____	Salary Costs: 17,070.00
Component: 05-05-00-03-02-00	Region: _	Benefits Costs: 5,756.52
Scenario: 2 FY: 96	COLA %= 0.000	Total Costs: 22,826.52

-----  
 Actuals not available (Status: UNKNOWN ) | Retirement Code: A  
 -----

00/00/00	Step: B for _6.0 months & Step: C for _0.0 months (total: 6.00 )	
0	Merit Date; use merit defaults? N	( 0.0 @ & 0.0 @ )
	Class/Sched Prefix: 0	Schedule: AA (actual: )
	Bargaining Unit: XE	Range: 15 (actual: )
	Location Code: AWA	Place: JUNEAU
	Job Class Code: P3158	Title: EDUCATION ASSOC II_____
	Seasonal Indic.: P	Type: -

-----  
 Optional Override Salary Rates:

Monthly Rate: 0.00\_\_\_\_\_ for \_0.0 months & rate of 0.00\_\_\_\_\_ for \_0.0 months  
 Hourly Rate: 0.00\_\_\_\_\_ for \_0.0 months Frozen at this rate? (Y/N): N  
 Press ENTER to update record; enter # or use PF key to go to another screen:  
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations  
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0\_

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to agency review of public comment on the adoption, amendment, and repeal of regulations . . ."  
 Sponsor: Representative Kelly  
 Requestor: \_\_\_\_\_

Department Affected: Commerce and Economic Development  
 BRU: Alaska Public Utilities Commission  
 Component: \_\_\_\_\_  
 COMPONENT SERIAL NO. 364

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	21.9	21.9	21.9	21.9	21.9	21.9
TRAVEL	.4	.4	.4	.4	.4	.4
CONTRACTUAL	7.4	7.4	7.4	7.4	7.4	7.4
SUPPLIES	.5	.5	.5	.5	.5	.5
EQUIPMENT	.2	.2	.2	.2	.2	.2
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>30.4</b>	<b>30.4</b>	<b>30.4</b>	<b>30.4</b>	<b>30.4</b>	<b>30.4</b>

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	30.4	30.4	30.4	30.4	30.4	30.4
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>30.4</b>	<b>30.4</b>	<b>30.4</b>	<b>30.4</b>	<b>30.4</b>	<b>30.4</b>

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

**POSITIONS**

FULL-TIME						
PART-TIME	.33	.33	.33	.33	.33	.33
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

(SEE ATTACHED)

Prepared by: Robert A. Lohr, Executive Director  
 Division: Alaska Public Utilities Commission

Phone: 276-6222  
 Date: \_\_\_\_\_

Approved by Commissioner: William L. Hensley  
 Agency: Commerce and Economic Development

Date: 3/1/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 130

## ANALYSIS:

Section 6, subsection (b), at page 4, lines 13-22 of the bill, would require the Commission to make written estimates of:

1. the cost of regulatory compliance by affected persons
2. public benefits
3. effect on the state economy, and

finally, the Commission must find that an economically feasible method of regulatory compliance exists. This would require a 1/3-time Utility Finance Analyst III (Range 21) to prepare 8 cost impact estimates at 10 days each = 33% time.

Other lines are computed using a factor =  $\frac{\text{Salary of New Position}}{\text{Total Salaries}}$  (as a %) x total budget for line item.

# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

**BILL NO. HB 130**

Revision Date: 2/22/95  
 Title: An Act relating to...review of public comment on...regulations; examination of...regulations by ARRC, etc.  
 Sponsor: Representative Kelly  
 Requestor: Representative Kelly

Department: Commerce and Economic Dev.  
 BRU: Occupational Licensing  
 Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	152.2	152.2	152.2	152.2	152.2	152.2
SUPPLIES	0.1	0.1	0.1	0.1	0.1	0.1
EQUIPMENT (one time cost)						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>152.3</b>	<b>152.3</b>	<b>152.3</b>	<b>152.3</b>	<b>152.3</b>	<b>152.3</b>

CAPITAL EXPENDITURES						
CHANGE IN REVENUES	152.3	152.3	152.3	152.3	152.3	152.3

FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts	152.3	152.3	152.3	152.3	152.3	152.3
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>152.3</b>	<b>152.3</b>	<b>152.3</b>	<b>152.3</b>	<b>152.3</b>	<b>152.3</b>

Estimate of any current year (FY 94) cost: \$ None

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		0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY		0.0	0.0	0.0	0.0	0.0	0.0

**ANALYSIS:** (Attach a separate page if necessary) HB 130 requires a state agency to make new written determinations for each regulations project submitted to the lieutenant governor for filing. The Division of Occupational Licensing submits approximately 30 projects each year to the lieutenant governor for filing. The division plans to contract with an economist to make some of the written determinations, and to conduct a survey of a sampling of licensees to estimate the cost of compliance. (Continued on next page)

Prepared by: Jennifer Strickler, Administrative Officer *JFS* Phone: 465-2144  
 Division: Occupational Licensing Date: 2/22/95  
 Approved by Commissioner: William J. Hensley *WJH* Date: 2/24/95  
 Agency: Commerce and Economic Development

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**CONTINUATION of FISCAL NOTE ANALYSIS  
FOR BILL/RESOLUTION NO. HB 130**

HB 130 also requires the Department of Law to complete its review of regulations projects within 60 days. This is a dramatic reduction of the review period and may require additional staff in the Department of Law and increase the division's contractual expenses through a charge back in its RSA for legal services.

The estimated costs to the division of occupational licensing to comply with HB 130 are as follows:

**CONTRACTUAL** **\$152.2**

This expenditure covers the costs of contracting with an economist to make the determinations of economic impact required in the bill. These services are estimated at \$5,000 per project. The division begins approximately 30 regulation projects each year.

Also covered is the contractual costs of duplicating, preparing, and mailing surveys to a random sampling of licensees to determine compliance costs.

**SUPPLIES** **\$ 0.1**

This is the estimated cost of envelopes and labels for conducting surveys of licensees by mail.

**TOTAL** **\$ 152.3**

**FUND SOURCE:** The division anticipates funding to be provided by General Fund/Program Receipts. The costs will be passed on to licensees in the form of increased licensing fees.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 130

Revision Date: \_\_\_\_\_  
Title: Regulation Adoption Procedures and Review

Department: Commerce and Economic Development  
BRU: Insurance  
Component: Operations

Sponsor: Representative Kelly  
Requestor: Representative Kelly

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	50.0	50.0	50.0	50.0	50.0	50.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</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 General Fund						
1005 GF/Program Receipts	50.0	50.0	50.0	50.0	50.0	50.0
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>

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

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

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

The division has no economists on staff to provide the economic determinations required in AS 44.62.215(b)(3) and (4). We will, therefore, have to contract for this service. The Institute of Social and Economic Research estimated a cost of \$5.0 per regulation project. The division has averaged 10 regulation projects per year for the last two years, so \$50.0 would be necessary.

Prepared by:	Joan Brown, Administrative Officer <i>[Signature]</i>	Phone: 485-2597
Division:	Insurance	Date: 2/16/95
Approved by Commissioner:	William L. Hensley <i>[Signature]</i>	Date: 2/24/95
Agency:	Commerce and Economic Development	

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# FISCAL NOTE

No. 3

Bill Version: HB 130

(H) Publish Date: 3/20/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources  
 Title: ARRC review of public comment on the adoption BRU: Parks & Recreation Management  
of regulations Component: Parks Management  
 Sponsor: Representative Kelly  
 Requestor: \_\_\_\_\_ Component Serial No. 452

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
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	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	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 (FY95) 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)

The preparation of regulations for public review, the conduct of the public process and submission of the regulations to the Department of Law will require some additional duties of existing staff. No additional funding needed.

Prepared by: Peter J. Panarose Phone: 762-2603  
 Division: Parks & Outdoor Recreation Date: 4-Feb-95  
 Approved by Commissioner: [Signature] Date: 2/7/95  
 Agency: Natural Resources

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# FISCAL NOTE

No. 9  
 Bill Version: HB 130  
 (H) Publish Date: 3/20/95

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An Act relating to agency review of public BRU: Statewide  
comment on the adoption, amendment and... Component: Commissioner's Office  
 Sponsor: Rep. Kelly  
 Requestor: H. State Affairs COMPONENT SERIAL NO. 523

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

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b> Revenue Code	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GE Match						
1004 GE	10.0	10.0	10.0	10.0	10.0	10.0
1005 GE/Program Receipts						
1006 GE/MHTIA						
Other						
<b>TOTAL</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>	<b>10.0</b>

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

**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.)**

The amount requested is an estimate, approximately 1.5 staff months of effort to develop 4 written determinations specified in Section 44.62.215 of the bill for each regulation change proposed by the department.

Prepared By: Ken Bischoff *KB* Phone: 465-4336  
 Division: Administrative Services Date: 1/31/95  
 Approved by Commissioner: *Ronald L. Otte* Date: 3/13/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

No. 8  
 Bill Version: HB 130  
 (H) Publish Date: 3/20/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "...relating to agency review of public comment BRU: Legal Services  
on the adoption, amendment and repeal of regulations..." Component: Operations  
 Sponsor: Representative Kelly  
 Requester: Representative Kelly 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>	*****	*****	*****	*****	*****	*****

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>	0.0	0.0	0.0	0.0	0.0	0.0

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

**POSITIONS**

FULL-TIME	*****	*****	*****	*****	*****	*****
PART-TIME						
TEMPORARY						

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

This bill amends AS 24.20 and AS 44.62 to substantially expand the review process for the adoption, amendment and review of administrative regulations. The Department of Law has identified certain legal problems with the bill, and the department is working with the bill's sponsor to resolve these problems. Until this is done, we cannot determine if there will be a fiscal impact.

Prepared by: Richard I. Peques  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho  
 Agency: Department of Law

Phone: 465-3672  
 Date: 2/6/95  
 Date: 2/6/95

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