

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9160 HOUSE JUDICIARY

Constitutional Conventions (4th ed.1887). McFadden is instructive on the distinction between amendment and revision. We quote it at some length because it was decided by a distinguished court only a few years before the Alaska Constitution was written. Quoting from an earlier case, the McFadden court discussed revisions made by a convention in which "the entire sovereignty of the people is represented" Id. at 789.

The character and extent of a constitution that may be framed by that body is freed from any limitations other than those contained in the constitution of the United States. . . . The very term "constitution" implies an instrument of a permanent and abiding nature, and the provisions contained therein for its revision indicated the will of the people that the underlying principles upon which it rests, as well as the substantial entirety of the instrument, shall be of a like permanent and abiding nature. On the other hand, the significance of the term "amendment" implies such an addition or change within the lines of the original instrument as will effect an improvement, or better carry out the purpose for which it was framed.

Id. The court held that the measure in question was so "far reaching and multifarious" that it was revisory rather than amendatory in nature. Id. at 788. The court listed numerous sections of the constitution which the measure in question would affect. Id. at 794-96. This review demonstrated

the wide and diverse range of subject matters proposed to be voted upon, and the revisional effect which it would necessarily have on our basic plan of government. The proposal is offered as a single amendment but it obviously is multifarious. It does not give the people an opportunity to express approval or disapproval severally as to each major change suggested

Id. at 796-97. In Adams v. Gunter, 238 So. 2d 824 (Fla. 1970), the court opined that amendment as distinct from revision authority "includes only the power to amend any section in such a manner that such amendment if approved would be complete within itself, relate to one subject and not

substantially affect any other section or articles of the Constitution or require further amendments to the Constitution to accomplish its purpose." Id. at 831.

6. The above authorities are quoted merely to suggest factors that should be considered in determining whether a proposed constitutional change is amendatory or revisory. In making such a determination, respect for the legislature and the electoral process requires that courts should decline to order a measure removed from the ballot except in clear cases. See Meiners v. Bering Strait Sch. Dist., 687 P.2d 287 (Alaska 1984).

7. Legislative Resolve No. 59. This measure proposes to amend the Alaska Constitution by adding a new section to article I providing as follows:

Rights of Prisoners. Notwithstanding any other provision of this constitution, the rights and protections, and the extent of those rights and protections, afforded by this constitution to prisoners convicted of crimes shall be limited to those rights and protections, and the extent of those rights and protections, afforded under the Constitution of the United States to prisoners convicted of crimes.

All provisions of the Alaska Constitution granting prisoners' rights not granted under the federal constitution are superceded or amended by this measure. Numerous provisions of the Alaska Constitution are either actually or potentially affected. Changed or potentially changed would be such constitutional guarantees as the right of all persons to equal rights, art. I, § 1; freedom of religion, art. I, § 4; freedom of speech, art. I, § 5; the right to petition government, art. I, § 6; the right to due process of law, art. I, § 7; protections from double jeopardy and self-incrimination, art. I, § 9; the right to counsel, art. I, § 11; protection from excessive bail, excessive fines and cruel and unusual punishment, art. I, § 12; the rights which flow from the principle of reformation, art. I, § 12;

the privilege of habeas corpus, art. I, § 13; protection from unreasonable searches and seizures, art. I, § 14; and the right to privacy, art. I, § 22.

8. Legislative Resolve No. 59 is similar in character to the ballot measure involved in Raven v. Deukmejian, 801 P.2d 1077 (Cal. 1990). The measure in that case provided in part that the California Constitution "shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States" Id. at 1086. The California Supreme Court concluded that this measure "would be so far reaching as to amount to a constitutional revision" Id. We reach the same conclusion in this case. Legislative Resolve No. 59 would eliminate the independent force and effect of so many provisions of the Alaska Constitution with respect to the rights of prisoners that it is beyond the limits of the amendatory process of article XIII, section 1.

9. Legislative Resolve No. 71. This measure would amend article I of the Alaska Constitution by adding a new section to read:

Marriage. To be valid or recognized in this State, a marriage may exist only between one man and one woman. No provision of this constitution may be interpreted to require the State to recognize or permit marriage between individuals of the same sex.

The appellees contend that the meaning of this measure is that only marriages between one man and one woman may be given official status and recognition. Appellants contend that it has broader implications. They argue that the first sentence necessarily amends the Alaska Constitution in three respects: changing the equal rights clause, art. I, § 1; the civil rights clause, art. I, § 3; and the privacy section, art. I, § 22. They contend that the second sentence divests the judiciary of the power to interpret the constitution. Further, they argue that the second sentence "permits the criminaliza-

tion of homosexual relationships. . ." and may modify the free exercise of religion clause of article I, section 4 "because some religions . . . perform same sex marriages today."

10. In our view the first sentence of the resolve is not so broad in scope that it is impermissible as an amendment. It potentially affects the meaning of the equal rights clause contained in article I, section 1. Article I, section 3 is not affected, for it does not specify sexual preference as a suspect classification. Further, it is unclear whether the right to privacy is affected, for the first sentence is concerned with recognition of marriage as an official relationship, not with private relationships. Moreover, the content of the sentence is simple to express and understand. It relates to only one subject and does not substantially affect numerous other sections of the constitution.

11. More problematical are two aspects of the second sentence of the measure. The appellants argue that the second sentence may be interpreted to permit the prosecution of individuals because they are involved in marriage-like relationships which are not officially sanctioned, and may tend to inhibit, because of this risk, religiously sanctioned marriage ceremonies. The appellees counter that the second sentence is superfluous. They argue that it is intended to say no more than that other provisions of the Alaska Constitution must be harmonized with the first sentence. Appellees suggest that this court could make it clear that the proposed amendment is not intended to interfere with or criminalize private or religiously recognized same-sex partnerships by issuing an interpretation to that effect in this case. At oral argument the appellees acknowledged that this court has the power to order the deletion of the second sentence, but questioned the need for this action since the sentence is merely surplusage. We believe that there is such a need. We do not believe that language which is surplusage should be part of the constitution. Of special concern is

the possibility that the sentence in question might be construed at some future time in an unintended fashion which could seriously interfere with important rights. As decades pass, the legislative history of the resolve may fade from memory. Further, court decisions lack the permanency of constitutional language and may be overruled. The objective of the second sentence -- harmonization of other provisions of the constitution with the meaning of the first sentence -- will be achieved in any event, for a specific amendment controls other more general provisions with which it might conflict. State v. Ostrosky, 667 P.2d 1184, 1190 (Alaska 1983); Johns v. Commercial Fisheries Entry Comm'n, 758 P.2d 1256, 1264 (Alaska 1988). Impelled by these considerations we believe that deletion of the second sentence is appropriate.

12. Legislative Resolve No. 74. This measure would amend article VI of the Alaska Constitution concerning the apportionment of House and Senate districts. Currently reapportionment is a function performed by the Governor. Under the proposed amendment the function would be performed by a board consisting of five members, two appointed by the Governor, one appointed by the presiding officer of the Senate, one by the presiding officer of the House of Representatives, and one by the Chief Justice of the Supreme Court. It is our view that this resolve reflects an appropriate exercise of the amendatory power. While the change is an important one, it is simple to express and understand. It is complete within itself, relates to only one subject, and does not substantially affect numerous other sections of the constitution.

13. The appellants also argue that the three ballot propositions should be considered in the aggregate to be beyond the constitutional amendatory process. We reject this argument, for the measures lack substantial relationship to each other and are proposed for separate and independent approval. See Rivera-Cruz v. Gray, 104 So. 2d 501 (Fla. 1958).

14. In addition to the point that the measures are beyond the amendatory process, the parties raise two other process-related issues which are appropriate for decision prior to the election. These are whether the propositions violate a constitutional one-subject requirement and whether the Lieutenant Governor's summary is fair and impartial. The Legislative Council also objects to the summary as not fair and impartial. We have examined these claims and find them to be without merit. However, the final sentence of the summary regarding marriage must be deleted in conformity with our decision regarding that measure.

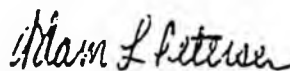
15. Appellants' remaining claims are inappropriate for a pre-election challenge.

ORDER

1. Legislative Resolve No. 59 shall not be placed on the ballot.
2. The second sentence of the amendment proposed by Legislative Resolve No. 71 shall not be placed on the ballot. To conform with this change the last sentence of the Lieutenant Governor's summary shall be deleted.
3. Legislative Resolve No. 74 shall be placed on the ballot.
4. An opinion will follow.

Entered at the direction of the court.

Acting Clerk of the Appellate Courts



Adam L. Petersen

COMPTON, Justice, dissenting, in part.

The court concludes that the words "amend" and "revise." as used in article XIII of the Alaska Constitution, indeed have a different meaning. I agree. It also concludes that the proposed changes to the constitution relating to prisoners and the definition of marriage are, in whole or in part, "revisions" to the constitution and hence cannot be placed on the ballot by legislative action; only a constitutional convention can act to place these issues before the voters. I also agree. However, the court concludes that the proposed change relating to the manner by which reapportionment is accomplished is merely an "amendment." By any measure this seems unsupportable; it is particularly so in light of the court's conclusions with respect to constitutional "revisions" regarding prisoners and the definition of marriage. Therefore, I dissent from the court's conclusion regarding this issue.

The Alaska Constitution provides for a chief executive with strong powers, one of which is the power to shape the composition of the reapportionment board. Effectively, this is the power to shape the composition of the legislature itself. Indeed, Alaska's is probably the only state constitution that grants its chief executive such broad power over reapportionment. The chief executive's constitutional powers, including the power over reapportionment, were among the most debated, if not the most debated, issues at Alaska's Constitutional Convention. To now permit this issue to be brought before the voters through legislative action as a constitutional "amendment" ignores the importance which the Constitutional Convention gave to this issue, and the pervasive effect the transfer of so much constitutional power from the chief executive to the legislature will have on the manner by which voters are grouped together to elect legislators. Moreover, not only will the "amendment" divest the chief executive of much of the constitutional power that office has

held since statehood, and invest the legislature with a constitutional power heretofore unknown to it, but also it will bring the judiciary into the reapportionment process in a manner which is potentially highly political. The fact that the very persons whose interests are the most directly affected by this "amendment" are the persons who have brought the issue to the voters by the least restrictive, least impartial, and most politically sensitive process, should not be ignored.

The proposed constitutional "revision" regarding prisoners affects a narrow class of persons comparatively few in number. Yet because it implicates numerous state constitutional provisions, and divests prisoners of state constitutional protections, we conclude that it is a constitutional "revision" that cannot be brought before the voters as a constitutional "amendment" initiated by legislative action.¹ On the other hand, we conclude that the proposed change regarding reapportionment, which fundamentally redistributes among all three branches of government constitutional power previously held by the chief executive alone, impacts all voters within the state, and restructures the manner by which the voters are grouped together to elect their legislators, is a mere constitutional "amendment" undeserving of the politically impartial deliberation inherent in the constitutional convention process. The irony is remarkable.

¹ In concluding that Legislative Resolve No. 74 is an "amendment" and not a "revision," the court observes that "[w]hile the change is an important one, it is simple to express and understand. It is complete within itself, relates to only one subject, and does not substantially affect numerous sections of the constitution." Except for the "does not substantially affect" phrase, which relates to the numerous constitutional provisions that will be affected, what could be more easily expressed and understood than that the rights of prisoners under the Alaska Constitution shall be limited to those afforded by the Constitution of the United States?

HB

3

(7)
Date Referred to Committee: January 13, 1997

FURTHER REFERRALS:

Date of Committee Action: 2/19/97

The JUDICIARY Committee considered:

HB 3

HOUSE BILL NO. 3

DISCLOSURES RE FELONY ARRESTS OF MINORS

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

recommends it be replaced with the following committee substitute CS HB3 (JUD) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) ADMIN, PUB. SAFETY
& HSS - DFYS

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Wm Croft</u> CROFT		✓		
<u>Richard Ruckeberg</u> RUCKEBERG	✓			
<u>Richard Porter</u> PORTER	✓			
<u>Green</u> GREEN	✓			
<u>James</u> JAMES			✓	
<u>Berkowitz</u> BERKOWITZ		✓		

CHAIR'S SIGNATURE [Signature]

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 3

1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to disclosures of information about certain minors"

Department Affected: Administration

BRU: Public Defender Agency

Component: Public Defender Agency

Sponsor: Representative Kott

Requestor: (H) Judiciary

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill allows a state or municipal law enforcement agency to disclose to the public whenever a minor has been arrested for the commission of an offense, the name of the minor, the name of the minor's parents or guardian, the date and place of the offense, and a description of the nature of the offense. The old rehabilitative system of juvenile justice was designed to treat minors and protect them from the stigma of youthful indiscretion by having confidential proceedings and records. This bill destroys that confidentiality and more troubling, allows the court of public opinion to convict a minor prior to any formal adjudication that the minor in fact is guilty of the offense for which he is charged.

There is no fiscal impact on the Public Defender Agency.

Prepared by: Barbara K. Brink, Director
 Division: Public Defender Agency

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 2/14/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: HB 3

Revision Date: _____ Dept. Affected: Public Safety
 Title: Disclosures Re. Felony Arrests of Juveniles BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Kott
 Requestor: H. Judiciary COMPONENT SERIAL NO. 0799

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-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						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

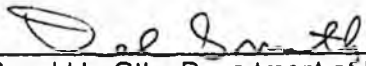
Estimate of current year (FY 97) impact: \$ _____

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.)

This bill will not have an impact on the Division of Alaska State Troopers.

Prepared By: Lt. Dan Lowden Phone: 269-5412
 Division: Alaska State Troopers Date: January 16, 1997
 Approved by Commissioner:  Date: 1/31/97
 Agency: Ronald L. Otte, Department of Public

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 3

Revisor Date: _____
 Title: Disclosure of Information About Certain
 Minors _____
 Sponsor: Representative Kott
 Requestor: House (JUD)

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

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Because the information to be disclosed does not come from DFYS, this bill has no fiscal impact on the Division.

5/31/97

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services

Phone: 465-3191
 Date: 01/31/97

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

Date: 2/3/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CS HB 6(HES)

Revision Date: _____
 Title: Relating to the disclosure of information
 relating to certain minors
 Sponsor: Representative Kelly
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Northern Region
 COMPONENT SERIAL NO. 255
 See also (SN#): 252,253,254,258,259,264,2134

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES	()				
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(113.8)	(113.8)	(113.8)	(113.8)	(113.8)	(113.8)
1003 GF Match						
1004 GF	(98.4)	(98.4)	(98.4)	(98.4)	(98.4)	(98.4)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)

POSITIONS:

FULL-TIME	-2					
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

The Division of Family and Youth Services currently receives approximately \$7.5 M in federal funds as reimbursement for foster care and administrative services provided to Children in Need of Aid (CINA) and Delinquents. Federal law prohibits disclosure of information regarding DFYS clients except in certain circumstances. In order to disclose information on juvenile offenders as described in this bill and still minimize the loss of federal funds, the division must revise the organizational and financial structure of the agency to clearly separate costs and services associated with juvenile offenders from those associated with CINA's and must discontinue claiming federal reimbursement for those costs and services. This restructuring will preserve the majority of federal receipts but will still result in some reductions which must be replaced by general funds. This fiscal note reflects the costs associated with that restructuring and the reduction in federal claims.

In addition to the ability to disclose information, the division will be able to improve the consistency, coordination, and quality of services provided to communities and offenders by more clearly focusing the leadership provided to the youth corrections section

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 907 465-3191
 Date: 02/10/97
 Date: 2/12/97

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ANALYSIS (cont.):

Loss of Federal Funds:	(\$113.8)
Change in positions:	
Delete Regional Administrator PCN 06-3218	(\$99.9)
Delete Social Worker V in Bethel PCN 06-3201	(\$91.1)
Delete Social Worker V in Nome PCN 06-3089	(\$98.3)
New PCN Social Worker V in Fairbanks	\$77.1
Total	(\$212.2)

DATE: Wednesday, February 19, 1997

TO: Representative Joe Green
Chairman Judiciary Committee
907-465-4316/fax

FROM: Karen Miller
10021 Crest View Lane
Eagle River, AK 99577
907-694-2710/phone

RE: HB 3

I would like to take this opportunity to encourage you to carefully consider the consequences of HB 3. I strongly disagree with its provisions regarding the treatment of juvenile offenders.

Sincerely,
Karen Miller



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Judiciary
 COMMITTEE ON House Bill #3 DATED 2-10-97
 BILL/SUBJECT COMMITTEE NAME

As a student of Austin E. Lathrop High School in Fairbanks I strongly disagree with the motives behind House Bill #3. Not only is this Bill a violation of the rights of minors, it discredits our judicial system. As a student I know that the way to teach is not to shame or humiliate, but instead to guide and encourage. Thus far the Alaska judicial system has attempted to do just that - to punish delinquent minors but also to give them another chance when they become adults. This Bill takes that power away from the judicial system and gives it to a less objective public who are more likely to disregard the facts and accept to jump to conclusions.

This Bill also gives too much power to police officers. The Bill reads that the police may choose whether or not to release the information. I don't like the possibility of potential corruption that is a result of the word "may". We must not pass ambiguous laws that put policemen in the position to play favorites.

The third objection I have to this Bill is that the information is released only upon arrest and not expunction. If the minor has not been proven guilty of the crime what right does the public have to know?

I do not understand how this Bill will solve any of the problems facing our state. I believe that House Bill #3 will instead exaggerate problems, create tensions and plant suspicion in the community. This legislature is too willing to ostracize the youth in our communities. We must be more willing to include and not exclude our youth. These delinquent minors already feel that the world is against them - Please, don't prove them right.

SIGNED Annie L. Bell
 TESTIFIER

AP Government and English Literature
 REPRESENTING (OPTIONAL)

2290 Patterson Cape North Pole, Alaska 99701
 ADDRESS/PHONE NUMBER

(907) 488-2877

Trooper shot on bike path; boy, 16, charged with attempted murder



Nora Gruner/News-Miner

CHARGED—David Knutson, 16, is charged as an adult with attempted murder in the shooting of Alaska State Trooper J. R. Roberts early Thursday morning.

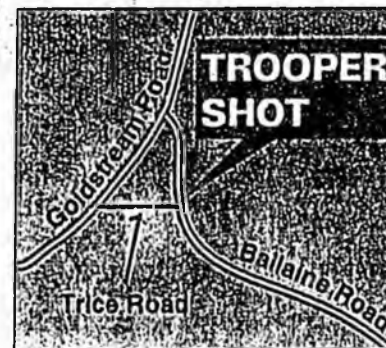
By KAREN AHO
Staff Writer

An Alaska State Trooper was shot on a Ballaine Road bike path early Thursday by a 16-year-old boy he was about to arrest on burglary charges, authorities say.

John "J.R." Roberts, 39, was shot three times with a .22-caliber semi-automatic handgun after asking the teen to place his hands on the patrol car, troopers said.

David J. Knutson, who had already given his photo ID to Roberts, instead pulled a stolen .22 from his back pocket and fired several rounds at Roberts from close range, troopers said.

Knutson was charged with attempted murder and felony assault in adult court Thursday after surrendering at the scene. He was being held on \$500,000 bail at Fairbanks Youth Facility.



Dave Brenner/News-Miner

Roberts was listed in satisfactory condition at Fairbanks Memorial Hospital. He was shot twice in the upper leg and once in the upper chest. A fourth bullet hit the two-way radio strapped to his belt. He was wearing a bullet-proof vest.

"There's a very good chance, barring any infection, he'll be released tomorrow," trooper spo-

kesman Mike Corkill said Thursday.

Two other 16-year-old boys believed to have been with Knutson earlier in the morning were arrested later Thursday on burglary charges. Their names were not released because they were to be prosecuted as juveniles.

The three troopers on the midnight-to-8 a.m. shift Thursday had been investigating burglary reports in west Farmers Loop and Goldstream Valley most of the morning.

The Ballaine Road area has been particularly hard hit by thieves and vandals this summer, troopers have said, and several teens have been repeatedly arrested and released by juvenile authorities.

The events that preceded Thursday's shooting began with



JOHN "J.R." ROBERTS

a 2:39 a.m. report to troopers of an abandoned truck on Grenac Road, off Farmers Loop. A caller said he saw young men run away from a 1991 Chevrolet pickup that had apparently been torched and had belongings scattered nearby.

Amid the varied goods, troopers found a radio receiver inscribed with the name Mark McNay, a state Department of

See TROOPER, Page A-9

TROOPER: Shot

Continued from Page A-1

Fish and Game biologist who lives several miles away on Inclination Drive.

Troopers called McNay at 4:30 a.m.

"They wanted to know if I had my radio," McNay said. "I said, 'Yeah, it's in my truck.' They said, 'Can you check?' I looked outside and my truck was gone."

McNay also discovered that his garage had been broken into and a .22-caliber handgun, .22-caliber rifle, ammunition, bow and arrows, spotting scope and a propane torch had been stolen. A .44-caliber magnum handgun, two radio receivers and a video camera were in the Ford Ranger from a field trip.

Trooper Gary Cook drove out to investigate shortly after 5 a.m. As he approached McNay's driveway, Cook noticed headlights suspiciously dim on a side street as he passed by, Corkill said.

Cook took a right on the street, Stevens Avenue, and went up the driveway near where the truck, now unlighted, was parked. Inside the house, resident Jock Irons had recently been awakened by his dog barking.

Irons had just told his dog to quiet down when he said he heard a man's voice outside yell: "Don't run or I'll shoot your ass."

Troopers said Cook had surprised some boys carrying goods from Irons' garage. Irons said two large speakers and two cases of home-brewed beer were taken.

The boys dropped the goods and fled into the woods. Cook radioed the suspects' descriptions to the other troopers on duty.

Roberts, a 15-year-trooper and commander of the night shift,

spotted boys matching that description walking along the bike path near Trice Avenue, about a mile away, a short time later.

He had taken an ID from Knutson and asked the other boy to remove his baseball cap so he could see his face and hair, when he asked the pair to put their hands on the patrol car, troopers said.

Roberts was shot at 5:53 a.m. His weapon was not fired, troopers said. Corkill said he didn't know whether Roberts drew his gun. Hit by a bullet, Roberts' two-way radio failed to work. He made it to his patrol car and radioed for help.

Troopers said Knutson walked out of the woods when other troopers arrived, and that he showed officers where the .22 and .44 handguns were stashed.

Troopers used a helicopter and about a half-dozen patrol cars in a morning search for the second suspect. A second 16-year-old was contacted at his home on Viewpointe Drive at 10:15 a.m. and was arrested without incident, troopers said.

A third 16-year-old, reportedly not present during the shooting, was arrested Thursday afternoon.

Roberts has been stationed all 15 years in Fairbanks. Among troopers, he is known as the "big guy" who can diffuse a tense situation by his mere presence, and as the quiet man who earns respect even from the dozens of drunken drivers he arrests.

Roberts is well-known outside the law-enforcement community as well. He plays basketball on a city recreation league and has coached youth basketball. He and his wife, Verna, have two children.

RECEIVED
FEB 12 1997

Kimberly Miller
3320 Nowell Ave. #4
Juneau, AK 99801

Representative Joseph Green
State Capital
Juneau, AK 99801-1182

Dear Rep. Green:

I am writing to express my strong opposition to HB 3 and HB 6, both concerning Release of Information About Juveniles. I attended the House Judiciary Committee meeting on Feb. 7, and would like to respond to information and testimony from that meeting, as well as outline my opposition to HB 3 and HB 6.

I feel that HB 3 and HB 6 would result in the rehabilitative and preventative nature of our juvenile justice system being severely compromised. Breaching confidentiality will result in the stigmatization and labeling of juvenile offenders that will negate rehabilitation efforts, erect barriers to future educational and employment opportunities, and most likely lead to future criminal activity.

There is no proof that this measure will have the effect of either preventing or deterring criminal activity. Instead of this unproven and dangerous measure the juvenile justice system should utilize additional treatment resources and programs of "restorative justice" such as victim-offender mediation and youth courts that provide both accountability for the youths actions and rehabilitation for the juvenile offender.

During the meeting on Feb. 7 a number of issues were raised that concerned me. Your comment that disclosure to the public does not mean that the juvenile is guilty, and thus you feel that this is how the public would view the information is problematic for me. I have serious concerns about the assumption that the public would not automatically convict that youth in their minds and react to the disclosure as if the juvenile had actually been found guilty. The issue that Representative Bunde raised regarding the subjectivity of the decision of when and what to disclose by each law enforcement jurisdiction is of concern due to the potential for discrimination to individuals and specific groups of juveniles. I share Representative Croft's concerns regarding what type of information would be released about parents, and the possibility of deterring prospective foster and adoptive parents.

I see HB 3 and HB 6 as a dangerous and unproductive direction to proceed in the effort to improve our juvenile justice system. The potential to improve the system, and thus reach a larger number of troubled youth is welcomed by all in the human service field, but we must proceed by utilizing effective interventions that target early intervention and rehabilitative efforts.

Sincerely,
Kimberly Miller, MSW

The table below summarizes the fiscal notes for DFYS components which will be impacted if HB 6 passes. The loss of federal IVE revenue will be caused by the disclosure of information from DFYS juvenile delinquency records because DFYS will not be able to claim those particular funds once information from those records is no longer confidential. The restructuring costs are related to the need to administratively separate the youth corrections programs from the child protection programs, including the associated costs, to prevent the additional loss of funds currently claimed for child protection clients.

Total Costs due to Loss of IVE Revenue and Restructuring						
	IVE Revenue			Cost of	Total Cost	Total Cost
	Loss	PCN#	Position	Restructure	of Restructure	
Southeast		06-3482 new	Delete Regional Admin. SW V	(\$82,600.00) \$73,800.00		
	\$44,200				(\$8,800.00)	\$35,400
Southcentral		06-3482 new	Delete Regional Admin. SW V	(\$92,200.00) \$73,800.00		
	\$157,500				(\$18,400.00)	\$139,100
Northern		06-3218 06-3201 06-3089 new	Delete Reg Admin. Delete SW V/Bethel Delete SW V/Nome SW V / Fairbanks	(\$99,900.00) (\$91,100.00) (\$98,300.00) \$77,100.00		
	\$113,800				(\$212,200.00)	(\$98,400)
Central Office		new new	Admin Clerk II CPS Admin Officer	\$37,300.00 \$83,300.00		
	\$80,000				\$120,600.00	\$200,600
Probation Serv.		new new new new new	Youth Supt. II Chief Prob. Officer 3 Admin Clerk II 3 Admin. Assts. Juvenile Prob. Off V	\$73,800.00 \$83,900.00 \$112,000.00 \$138,600.00 \$74,300.00		
					\$482,600.00	\$482,600
McLaughlin YC		06-3483	downgrade Supt. II	(\$24,100.00)	(\$24,100)	(\$24,100)
Foster Care	\$18,600					\$18,600
Residential Care	\$284,100					\$284,100
Total	\$698,200				\$339,700	\$1,037,900

Fiscal notes are developed on each bill as if that were the only bill to become law. There has been no attempt to duplicate costs across these bills but to accurately represent the cost associated by each bill on its own merits.

The fiscal notes for HG 6 reflect the costs for both the loss of funds and the restructuring because, standing alone, passage of this bill will result in both occurrences.

The fiscal note for HCR 4 currently reflects 0 fiscal impact because the original bill only addressed the separation of records. Since DFYS already maintains separate records for child protection cases and delinquency cases, the bill would have no impact since it does not mandate the disclosure of information. If the proposed CS is adopted, the department will submit a fiscal note reflecting only the cost of restructuring the Division of Family & Youth Services.

HB 3 carries a 0 fiscal note because the information to be disclosed does not come from DFYS records.

FY 96 DFYS STATISTICS ON PETITIONS FOR DELINQUENCY

Petitions Filed	2,334	
Held in Abeyance	149	6.38%
Waived to Adult	10	0.43%
Withdrawn by DFYS	4	0.17%
Dismissed by Court	497	21.29%
Adjudicated Guilty	1,390	59.55%
Decision Pending	284	12.17%
	2,334	100.00%

Youth gets 30 years for attack

By LIN GALE
Staff Writer

Jennifer Maguire has little doubt that if she had not played dead early Oct. 15, she would be.

Early that morning, 16-year-old Paul Daniel Shewfelt walked into Maguire's apartment, and choked, beat, and stabbed the 22-year-old woman 19 times. He slit her throat and, while she lay motionless on the floor, five months pregnant, ripped off her clothes and raped her.

"What happened to me is everybody's worst nightmare," Maguire said Friday at her attacker's sentencing. Maguire gave the News-Miner permission to use her name and photograph.

Superior Court Judge Richard Savell sentenced Shewfelt, now 17, to 30 years in jail, the maximum allowed under terms of his plea agreement. Shewfelt in February pleaded no contest to at-



Mike Mathers/News-Miner

DAY IN COURT—Assistant Public Defender Paul Canarsky, left, sits next to his client, Paul Daniel Shewfelt, 17, in Fairbanks Superior Court Friday morning.

tempted murder in exchange for the state dropping rape and assault charges. He will be eligible for parole in 10 years.

Maguire, now 23 and a secretary at the Tanana Chiefs Conference, bears a 12-inch scar that runs across her throat and up to

See ATTACK, Page A-12

ATTACK

Continued from Page A-1

her right eye. The wound is one of a dozen that mar her arm, back, stomach and side. Her unborn child was not injured in the attack.

In a tear-filled statement, Maguire urged the judge to hand Shewfelt the maximum 30-year term. Maguire said that no matter what sentence her assailant received, it could not be as harsh as the punishment he inflicted on her.

"I have a life sentence to bear in this scarred and beaten-up body," she said. "I just turned 23 years old. I don't deserve having to live with these scars."

According to authorities, Shewfelt spent the hours leading up to the attack drinking beer at a friend's house. Around midnight, he called the apartment on Adams Drive that Maguire shared with his cousin. Maguire, who did not know him, told Shewfelt his cousin was not home.

Shewfelt stole a 10-inch butcher's knife from his friend's kitchen, and, knowing Maguire was alone, walked over to her apartment, the prosecutor said.

Maguire said he asked her if she had a lighter or matches, and she told him no and asked him to leave. He reeled around and began choking and punching her.

They fell to the floor and in the struggle Maguire escaped, ran to her bedroom, and tried to shut herself in. Shewfelt blocked the door with his arm, then forced it open and attacked her again, this time stabbing Maguire in her back so deep it punctured her lung. He then dragged the woman into the living room and slit her throat.

At that point, his victim said she decided to play dead. As she lay frozen, Shewfelt pulled off her clothes and raped her, authorities said.

Afterward, Shewfelt got up and walked into the kitchen, and Maguire ran from the apartment screaming for help. Another resident of the apartment building, Bret Helgerson, heard her cries and came outside. He told the judge that Shewfelt was still lurking nearby.

"He was hiding around the corner waiting for her," Helgerson said.

Helgerson brought the wounded woman into his apartment. Police followed a bloody trail to South Kobuk Avenue, where Shewfelt was staying with his aunt, and found him in his underwear. The teen had a cut on his hand, and had already run his clothes through the washing machine, according to police.

Assistant Public Defender Paul Canarsky requested a 15-year jail sentence for Shewfelt, saying the teen committed the crime in an alcohol-induced stupor, and that he was young enough to be rehabilitated. Shewfelt chose to enter the plea agreement rather than go to trial because he wanted to face up to his crime, the lawyer said.

"He could still grow up, could still mature, could still become a better person," Canarsky said.

Shewfelt, bound in ankle and wrist shackles, stood and briefly addressed the judge: "I just want to say sorry to everyone that I've hurt." He asked for the judge's mercy.

The prosecutor argued that the teen-ager should spend a long time in jail because, if not for the victim's will, Shewfelt would have committed first-degree murder.

"Through the intervention of luck, fate and one brave neighbor, Ms. Maguire did not die," Assistant District Attorney Pat Doogan said.

The judge agreed. Savell said he was convinced that Shewfelt intended to kill her.

"There is no doubt in this court's mind that this was a premeditated and callous act unaccompanied by fear, regret, or concern for the victim," the judge said. "It was the interference that changed the result, nothing that Mr. Shewfelt did or didn't do."

Additionally, Savell rejected the defense's contention that the crime was committed in an alcoholic blackout. He noted that Shewfelt had the wherewithal to call his victim before going over, and to attempt to cover up the crime by washing his clothes and lying to police.

The judge said he was also troubled by a psychiatrist's failure to determine why Shewfelt so brutally attacked the woman. "Without insight on how it happened, the court is without insight on how to prevent it."

Student pleads no contest to attempted murder

By LIN GALE
Staff Writer

A Lathrop High School student arrested in March for a knife attack on a cab driver pleaded no contest Thursday to attempted murder.

Deamont Wade, 17, entered the plea agreement in exchange for the state dropping robbery and first-degree assault charges. The deal, approved by Superior Court Judge Jay Hodges, includes a sentencing cap of 30 years in jail. Attempted murder is punishable by up to 99 years imprisonment.

Wade, who has been in Fairbanks Correctional Center since the attack, was ordered held without bail until sentencing, set for Nov. 12.

Wade's public defender, Paul Canarsky, said the crime was a robbery that went awry rather than a murder attempt, but they decided to accept the state's offer instead of risking a longer jail term.

"You can never predict what's going to happen at trial, and this agreement protects him from a sentence in excess of 30 years," the lawyer said.

The attack occurred about 2 a.m. March 3 when Fairbanks Taxi driver Charlie Moran picked up Wade, then a 16-year-old Lathrop sophomore, on Second Avenue to give him a ride to Ambassador Apartments on Fifth Avenue, according to police

and the victim.

Police said Wade lunged at the 55-year-old cab driver with a 7-inch combat knife, stabbing him in the throat, face and chest. Moran grabbed the knife to stop the attack and the blade broke off in his hand. Wade fled with \$40, police said.

Moran said he tried to drive himself to the hospital, realized he would not make it, and drove into a snowbank to get attention.

"He just kept going for the jugular ... and screaming, 'I'm going to kill you man,'" the victim said in an interview shortly after the stabbing.

At the time, police said it appeared Wade set out to hurt someone, and that robbery was an "afterthought."

As the result of a similar plea agreement also negotiated by Canarsky, 17-year-old Paul Daniel Shewfelt was sentenced last week to 30 years in jail for the attempted murder of a 22-year-old pregnant woman in February. Shewfelt, who was 16 at the time, pleaded no contest to attempted murder in return for a 30-year sentencing cap and the dropping of rape and assault charges. He will be eligible for parole in 10 years.

Friday, June 14, 1996



Deamont Wade, 17, waits at his change of plea hearing at the State Courthouse Thursday afternoon while Superior Court Judge Jay Hodges reviews the case notes. Ben Grossmann photo

Michael J. Kirk

P.O. Box 20844
Juneau, Alaska 99802

February 12, 1997

Testimony to the House Judiciary Committee on House Bill 3, regarding disclosures of information about certain minors

Thank you for the opportunity to comment on this important bill.

I am a retired teacher. For decades my life's work has been teaching and guiding our young people, hopefully including helping them to become responsible adults.

I am deeply troubled by the trend toward lack of responsible behavior by youth and by the failure of their parents and the important adults in their lives to take on their own responsibility for shaping the behavior of their children. Ethical behavior and responsibility do not suddenly arrive when a person attains the age of eighteen or twenty-one. It is a gradual process, starting just after birth, slightly different for each individual. But in every case it is shaped, in part, by the attitudes of parents, and secondarily by the attitude of others in the community, including schools and the law enforcement system. Children are eager and impatient at each age or developmental state to assume the tasks and lessons we are willing to help them learn.

The primary responsibility for imbuing our youth with a sense of right and wrong must be in the home. We must -- through our laws and through our community attitudes -- make the parents the responsible parties along with the youths themselves.

Not every parent is equally equipped for this task. It is vital that parents who need help and guidance can go to a social services agency or school counselor for expert advice and assistance, and if they have that opportunity and are still unable or unwilling to take responsibility for their guiding their children's behavior and ethical education, sterner measures, such as institutionalization of the children, must be considered. *But the focus must be on the parents as the ones with the duty to teach responsible behavior to children.*

We need simple, understandable rules, at home and in the schools, which every parent and every child can understand and must agree to. They must also understand the consequences of failure. Responsibility is a prerequisite for freedom; license is not freedom, but irresponsibility.

I have attached one simple set of amendments to House Bill 3 which I believe would go a long way toward reasserting a community standard of responsibility for juvenile behavior. *Essentially, I suggest giving state agencies involved in juvenile justice the option of making delinquent behavior public and insuring that both the offending children and their parents must face community standards, not hide from them.*

Thank you for your serious and careful consideration.

Michael J. Kirk

HOUSE BILL NO. 3 (relating to disclosures of information about certain minors)

AMENDMENT NO. _____

Page 1, line 4:

(c) A state or municipal [law enforcement] agency

Page 1, line 8:

(2) shall, unless the agency determines that in the circumstances of the specific case the prejudice to the minor outweigh the interests of the public, [may] disclose to the public upon request but may not report to

Page 2, l. 7:

(3) shall [may] disclose to school officials information regarding a case as may

Page 2, l. 9:

(4) shall [may] disclose to the public information regarding a case as may be

Page 2, l. 11:

(5) shall [may] disclose to a victim information regarding the minor's arrest,

Justification: *In the present law and in the current version of HB 3, the authority to release certain types of information on juvenile offenders is purely discretionary, i.e., the agency "may" disclose but is not obligated to disclose. ["May" is used to grant discretionary authority and "shall" is used to require a particular action; see Legislative Drafting Manual, Ch. 2.] No standards are given for exercise of the discretion, so the agency is left with complete discretion and no standards for its exercise. ♦ This amendment makes disclosure mandatory unless the agency affirmatively finds that the prejudice to the minor of disclosure outweighs the public interest in the circumstances of a particular case. ♦ In addition, the change to page 1, line four, makes this disclosure policy applicable to all state agencies, including the Department of Health and Social Services, the Department of Law, and the Department of Corrections, in addition to police agencies.*

02/07/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

15:05:05

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:FBX

TCN:70202 SCHEDULED FOR:02/07/97 13:00 TO 15:00

FOR:FBX

PUBLIC HEARING

HOUSE JUDICIARY

LOCATION:FAIRBANKS

HB	3	MS.	PAMALA	WORMAN	TESTIFY
HB	6	MS.	JUDY	SHIFFLER	TESTIFY
HB	6	MS.	LORENA	HEGDAL	TESTIFY
HB	6	MS.	CAM	CARLSON	TESTIFY
ALL ITEMS		MR.	AL	NEAR	TESTIFY
ALL ITEMS		MR.	ERNIE	MANZIE	TESTIFY

TCN: 70202 DATE & TIME: 02/07/97 13:00 TO 15:00 STATUS:5 IN PROG.

**** ORDER SUMMARY ****

SPONSOR: HJUD HOUSE JUDICIARY CHAIRS: REP GREEN
PURPOSE: PUB PUBLIC HEARING LEGISLATIVE
CONTACT: LISA KIRSCH TEL#: (907)465-4990
CHAIRING SITE: JUNEAU CAPITOL CAP120
TOLL FREE: (800)478-7612 DIAL-UP: LIO: (800)478-9908

SPONSOR REMARKS(PUB): TESTIMONY:Y ALLOWED 3 MINUTE LIMIT
TESTIMONY WILL BE TAKEN WITH A 3 MINUTE LIMIT.

SPONSOR REMARKS(LIO): BACKUP MATERIAL:Y MEETING IN PROGRESS:N MAX. SITES:10
OTHER SITES MAY ADD THROUGH THE JNU LIO
BACK-UP FAXED 2/6
TCN REQUESTED ON 02/07/97 AND HAS 5 UPDATES

**** AGENDA ****

- 1 HB 3 DISCLOSURES RE FELONY ARRESTS OF MINORS
- 2 HB 6 RELEASE OF INFORMATION ABOUT MINORS

**** PARTICIPATING LIOS ****

ANC ANCHORAGE	716 W 4TH, #200	LOCATION STAFF
BET BETHEL	301 WILLOW ST.	LOCATION STAFF
FBX FAIRBANKS	119 N CUSHMAN ST	LOCATION STAFF
* JNU JUNEAU	CAPITOL CAP120	LOCATION STAFF
MAT MATSU	600 E RAILROAD	LOCATION STAFF

**** VOLUNTEER & OFFNET SITES ****

ZZZ OFF OFFNET/1 ANCHORAGE GARY GILLAM (907)786-8778

PARTICIPANTS IN: ANCHORAGE

1	BARBARA BRINK	PUBLIC DEFEND	TSFY. ALL ITEMS /
		AK	(907)000-0000

PARTICIPANTS IN: BETHEL

1	JENNIFER WISSINK	AVCP	OBSV. ALL ITEMS
	PO BOX 219	BETHEL	AK 99559 (907)543-3521

PARTICIPANTS IN: FAIRBANKS

1	MR. AL NEAR		TSFY. ALL ITEMS
		AK	(907)000-0000
2	MS. JUDY SHIFFLER		TSFY. HB 6
		AK	(907)000-0000
3	MS. LORENA HEGDAL		TSFY. HB 6
		AK	(907)000-0000
4	MS. CAM CARLSON		TSFY. HB 6
		AK	(907)000-0000
5	MR. ERNIE MANZIE		TSFY. ALL ITEMS
		AK	(907)000-0000

PARTICIPANTS IN: MATSU

2	MR. JASON CHAPMAN		OBSV. HB 3
	HC 31 BOX 5110	WASILLA	AK 99654 (907)376-5015
3	MR. ADAM WILL		OBSV. HB 3
	POB 875208	WASILLA	AK 99687 (907)373-5316

Fresh list for you.
Sorry, you were right.
4 in Fairbanks and 1 in Anchorage remain.

02/07/97 13:45:03 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCCCC IN MATSU

LTN1120
JNU

RE TCN: 70202 SCHEDULED FOR: 02/07/97 13:00 TO 15:00
SPONSOR: HOUSE JUDICIARY PURPOSE: PUBLIC HEARING

MESSAGE TEXT: ~~MATSU PARTICIPANTS GONE, NO TESTIMONY~~

Matsu participants left.
No interest in Matsu

Mr Bridges called in to join teleconference
but hung up when told he had to
wait until chair called on him. Didn't
have time to wait. Will send written
testimony.



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE HOUSE JUDICIARY
 COMMITTEE ON HB 6 HCR 4 DATED 2-10-87
BILLSUBJECT COMMITTEE NAME

I HEREBY SUBMIT FOR
 YOUR CONSIDERATION A
 COURTESY COPY OF SOME
 MATERIAL RELATING TO THE
 SUBJECTS YOU ARE NOW
 CONSIDERING.

INDEED "PANDORA'S BOX"
 IS FULL OF MANY HORRORS
 WHICH I HAVE SEEN, INCLUDING
 THE FEW MENTIONED IN THE
 ATTACHED DOCUMENT

SIGNED *[Signature]*
 TESTIFIER

SELF, CONCERNED PARENTS FOR REFORM
 REPRESENTING (OPTIONAL)

P.O. 75011 FBKS, AK 99707
 ADDRESS/PHONE NUMBER

(907) 474-0174

SCOTT TRAFFORD CALDER
P.O. Box 75011
Fairbanks, Alaska 99707
(907) 474-0174

February 4th, 1997

STATE OF ALASKA DEPARTMENT OF REVENUE
Child Support Enforcement Division (C.S.E.D.)
P.O. Box 103440
Anchorage, Alaska 99510-3440
(907) 269-6659

REQUEST FOR REVIEW

I hereby request a review of C.S.E.D. actions and intended actions, and request full discovery of all records, based upon the following facts:

1) The department has provided a defective "NOTICE OF INTENT TO SUSPEND OR DENY THE ISSUANCE OR RENEWAL OF DRIVER'S LICENSE", which does not reference any reason other than "Our records show" to support the claim that a valid assertion of an alleged debt exists.

2) The records of the department show that Scott T. Calder, entered the C.S.E.D. office in Fairbanks, Alaska, for assistance to receive child support payments from the mother, one Jody Buckingham, of the child, one David B. Calder, on or about August 5th, 1992. Scott T. Calder sought the services of the department at that time, to obtain relief, and was sent away by staff who said "You may as well not bother to submit an application for services because we won't help you".

3) The child, David B. Calder, who had been in the sole physical custody of Scott T. Calder from May 24th, 1989 to April 9th, 1993 (about four years), and was afterward illegally and unethically maintained in the custody of the State Of Alaska, should have benefitted from support from the mother during that time. However, Jody Buckingham has never paid any amount of child support to Scott T. Calder, for David Calder, having promised to do so at the time she sent the child to live with his father who is now the preferred target of C.S.E.D.

4) Records of the Alaska Departments of Health and Social Services, Administration, Revenue, Law, The Office of Public Advocacy, Public Defender Agency, The Office of The Governor, The Alaska Legislature, The Ombudsman's Office, The Federal Social Security Administration, Family Centered Services of Alaska, Fairbanks Community Mental Health Center, Fairbanks North Star Borough School District, Fairbanks Counseling and Adoption, The Superior Court of Alaska For the Fourth Judicial District, The U.S. Attorney's Office, and other persons and agencies, clearly show that David B. Calder, had been subjected to approximately seven years of physical abuse in the State of Maryland, prior to residing with Scott T. Calder in 1989.

5) The child, detained by authorities after his father had reported him as a runaway minor, assaultive, and truant from school, was endangered in an irresponsible foster home, protracting an otherwise temporary emergency by withholding minimum necessary services: intervening with school officials to correct neglect on their part, support existing nurture and guidance provided by Scott Calder to his son, and help to obtain child support payments from the mother to the father of David Calder. David Calder was rewarded for and aided in misconduct.

6) On or about May 11th, 1993, Scott T. Calder applied a second time for child support from the mother. Twenty-three months afterward, when the father had complained about drug experiments being performed on his child, the financial statement from that application was misrepresented by Karla Taylor Welch and Hazel Straub as a reason to claim, in effect, that Scott Calder should pay for his son to be abused, and for "authorities" to collude in child abuse, fraud, evidence and witness tampering, obstruction of justice, misappropriation of public funds.

7) Based upon discriminatory and prejudicial treatment of the father, on or about September 5th, 1993, the Alaska Department of Health and Social Services Division of Family and Youth Services (D.H.S.S./D.F.Y.S.) completed application for payments to ITSELF, from a federally funded Supplemental Security Income (S.S.I.) account, fraudulently created in the name of "DFYS for David Calder". The child was used to supply the State of Alaska with monetary proceeds, based upon the claim by the State of Alaska, that he had either "a behavior disorder" or "a drug problem", when in fact, the state had repeatedly encouraged delinquent behavior in the child, and had failed to offer any treatment whatsoever which would have been proper, given existing, known facts. Furthermore, the state engaged in custodial interference by refusing to uphold responsible actions of the parent Scott Calder whose authority should not have been questioned, by ignoring barriers to the child's education which were properly addressed by Scott Calder, and by refusing to assist in obtaining child support payments from the child's mother to the child's father.

8) The two previous child support applications requesting support from the mother were rejected without due process, and exploitation of the child substituted for "care", instead.

9) The State of Alaska, its agents, contractors, employees, by fraud and arbitrary and capricious exercise of power under color of law, created and used as an instrument of violence against Scott T. Calder, a "Childrens' Proceedings Support Order", punitively. This was an attempt to silence the truth about improper drug experiments performed on the child, denial of due process, unethical legal practices, gross negligence and other misconduct by the state, its agents, contractors and employees. Instead of acting to ensure that school district employees cooperated with the child's father, that the child's mother paid any amount of child support to the child's father, and that the child was told clearly to obey his father's correct

instructions to attend school and refrain from habitually dishonorable behavior, the state did the opposite of these things.

10) Richard Cline, an employee of Family Treatment Homes, under the supervision of Janice Lorenzen and Sarah McConnell and Doug Pomaroy, as contractors to D.F.Y.S./D.H.S.S. knowingly provided cigarettes to David Calder by offering an allowance of money with which the child was to purchase the tobacco from the foster parent and then allowed to consume it on the premises of the specialized foster home at Anderson Apartments in Fairbanks, Alaska. According to Ms. Lorenzen it was thought that this would develop a trusting relationship between Mr. Cline and David Calder, even though the child was only fourteen years of age and in need of help to return home to his own loving father.

Mr. Cline, an agent of the state, provided the tobacco.

Scott Calder complained about this practice to Ms. Lorenzen, who stated, as did Mr. Cline, that the child would have been expected to steal cigarettes anyway, were they not provided at program expense, and the practice of providing the tobacco to the minor would serve to "keep him from getting into more trouble". Mr. Calder knew, and stated, that this would have the opposite effect, which it has. Numerous similar errors in judgement were made by so-called "experts" and "authorities", that resulted in severe torment, and in destruction of familial bonds.

11) David Calder was released from approximately three and a half years of state-sponsored custody, to his father, in August, 1996, after being locked in a building for over a year. It was the boy's continued cooperation with official misconduct that resulted in his continued custody by the state. The child was indoctrinated that his father's continued objections were meaningless, leaving the child to understand that he could find unconditional attention for misconduct and be immune from discipline by his father, just as the boy's captors were immune from the truth. This was a political imprisonment of both David Calder and Scott Calder.

12) Scott Calder took every opportunity to communicate with each and every, or any, employee and agent of the State of Alaska, to provide important information about his son's true needs, and to address each particular error and violation committed by state agents et al. against both father and son, to no avail. This continued from April 9th, 1993 to August 1996, and afterward up to the present time at which point it is clear that the child will not benefit from having his father, who is the child's main source of support, lose his driver's license.

13) David Calder and Scott Calder have both been permanently scarred by improper, unethical, unlawful, dishonest, and unconscionable conduct of state officials and their designees. These violations of Alaska Statutes, federal laws, The Constitution of The United States of America and international

accords on human rights entitle the Calder Family to monetary, equitable, and other relief [A.S.18.80.200, A.S.18.80.210, and A.S.22.10.020 (1)] in addition to child support payments from Ms. Buckingham for the period, May 25th, 1989 to May 25th, 1997, NOT further sanctions, harassment, and assaults against David Calder and Scott Calder.

14) The Alaska Legislature, in a Special Act, created in the Department of Administration The Citizens' Review Panel For Permanency Planning, under A.S. 47.10.400 (et seq.), AND required that the Department of Health and Social Services, the Department of Law, the Office of Public Advocacy, The Public Defender Agency, and The Alaska Court System cooperate with local out-of-home-care external citizen review panels, and the state panel, to facilitate the timely reviews of children in the custody of the state, under A.S. 47.10.450. No reviews of these cases, one of which is that of David Calder and his family, have been performed in compliance with Public Law 96-272 as required by state law in the Fourth Judicial District. Rather, fraudulent exercises supervised by Mr. Gary Neubauer and others, to accomplish false conclusions, self-serving to those employees involved have been substituted improperly.

15) Governor Tony Knowles has knowingly been in violation of A.S. 47.10.420, requiring him to appoint a local panel in the Fourth Judicial District (Fairbanks), for the entire period of time during which he has held office. Former Governor Hickel was also similarly in violation of this law.

Governor Knowles has requested the Twentieth Alaska Legislature, in Senate Bill 73 introduced January 30th, 1997, to pass laws to discontinue effective external reviews of cases like that of David Calder by local citizens. This is an attempt to conceal, and to limit, liability and culpability of The State of Alaska for its wrongful civil and criminal acts against its citizens, as in this instant case.

16) David Calder currently resides with his father, Scott T. Calder. Continuing attacks by the Department of Revenue based upon specific neglect to resolve this matter, by, among others, April Mocre, Evelyn Hadfield, and Glenda Strube of C.S.E.D., and by personnel of other departments, have resulted in the present situation, and in continuing injury to the family.

17) Scott T. Calder has had an excellent driving record in Alaska for over nineteen years, operates a properly registered vehicle, is properly insured, is an excellent and safe operator of a motor vehicle, has not been involved in any collisions, regularly offers aid and assistance while driving to others in need including police officers, and is not a criminal.

18) The history of abuses communicated to the child, David B. Calder, by persons residing in the State of Maryland known to Jody Buckingham and as disclosed to mandated reporters within the State of Alaska and observed by Elizabeth K. Zehe, L.C.S.W. (State of Maryland), compounded by further abuses and incompetent acts of numerous persons employed under, and benefitting by, public trust and funds, describes an invariable pattern of

regularity in a defective product of government, present in Alaska. Additionally, this condition was known by the Alaska Legislature to be in existence and formally treated in law prior to 1990. That this condition, once it had been addressed formally by the legislature, could be preserved and maintained as a matter of discretionary abuse, preferred by people receiving money in return for efforts to deprive David Calder, Scott Calder, and others, of their lives, liberty, and pursuits of happiness, using public funds, constitutes crime against humanity.

19) The Department of Law entered into improper and secret negotiations with Jody L. Buckingham by contacting her December 24th, 1996 to inform her of its intention to relieve her of some of her financial obligations to pay child support in exchange for her agreement to be silent about pertinent matters neglected by state employees. This further prejudicial assault on justice and against Scott Calder and David Calder was, pro forma, made worse by automatic court order, given no service of any document to parties prior to the signed order.

20) Employees, agents, contractors, elected and appointed state government officials and their colleagues, of the State of Alaska, have routinely abused their discretion, quasi-judicial immunity, judicial immunity, respected status, and ethical codes, within the departments of Health and Social Services, Education, Administration, Revenue, Law, Public Safety, and the Alaska Court System, by engaging in fraud, collusion in child abuse, child abuse, bodily assault with drugs, malicious prosecution, wrongful imprisonment, and other crimes and torts against the members of the Calder Family and The People of the State of Alaska and the United States of America.

21) Copies of this request for review, and other reports and documents pertaining to this matter, will exist forever, and will continue to be forwarded to the appropriate parties and agencies.

22) Any failure by persons having official duty, ability, knowledge, or opportunity, to present complete apologies and relief for the atrocities committed against David Calder and Scott Calder, and The People, may result in civil and criminal liability, including possible prosecution for the crime of genocide, as well as in formal proceedings against said persons.

23) Scott Calder must be able to continue to legally operate a motor vehicle to participate in employment, transportation of household supplies, transporting his son to and from school and other appointments, and will be severely injured by unfairly revoking his established right to possess a driver's license.

24) Because of the more than forty months of invasive harm delivered to Scott Calder and David Calder by the State of Alaska as described here and elsewhere, including seizures of Permanent Fund Dividend checks, the Calder Family is without the resources to pay approximately \$11,000.00 to C.S.E.D., even if Scott Calder wanted to appease and submit to the extortion demands of C.S.E.D. in a false belief that this would somehow resolve this matter.

25) This document is a request for review, and is therefore

not intended to be exhaustive of all facts to be included during the review itself.

26) Previous requests, motions, and petitions for review have been refused, or subsequent decisions thereon falsified.

27) During the period April 1993 to March 1995, Scott Calder had no knowledge, notice, information or advisement, that the State of Alaska intended to request any payments from him for any reason. During the period March 1995 to August 1996, official communications specifically disregarded each of the numerous acts of official misconduct reported to proper authorities by Scott Calder, including drug experiments performed on the child, by Dr. Dean Ackley, Hazel Straub, Sonia Masurek, Geoffrey Wildridge, and Judge Richard Savell.

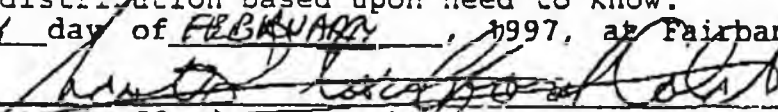
28) Additional evidence and testimony is available.

29) Scott Calder has been denied access to a redress of grievances directly by Steve Emerson (D.F.Y.S.) and numerous other state employees, as well as by the inability of ordinary citizens to withstand assaults, prejudice, discrimination, and arbitrary and capricious exercise of power by state agents expending effectively unlimited public resources. The indigent father of David Calder, Scott Calder, has been continuously harassed, defamed, and disadvantaged by those to whom he appealed for modest and appropriate help on behalf of his son. This has resulted in continuing and manifest injustice.

Copies of this document will be served upon the following:
Attorney General's Office,
Department of Health and Social Services,
Division of Family and Youth Services,
Child Support Enforcement Division;

Courtesy copies also provided to:
STATE OF ALASKA, P.D.O., O.P.A., F.Y.F., Ombudsman's Office,
Governor's Office, Legislature, Superior Court For the 4th
Judicial District;
UNITED STATES OF AMERICA, Senator Ted Stevens, Senator Frank
Murkowski, Congressman Don Young, Social Security Administration,
U.S. Attorney's Office, F.B.I., President of The United States
of America The Honourable William Clinton;
OTHER AGENCIES AND INDIVIDUALS, F.N.S.B.S.D., F.N.S.B., Fairbanks
Community Mental Health Center, Family Treatment Homes, Fairbanks
Counselling and Adoption, Family Centered Services of Alaska,
Disability Law Center, Alaska Legal Services, A.C.L.U., Alaska
Bar Association, Citizens' Commission on Human Rights, Rutherford
Institute, General distribution based upon need to know.

DATED this 6th day of FEBRUARY, 1997, at Fairbanks,
Alaska.


Scott Trafford Calder, In Propria Persona Parens

SIGNED and sworn to before me, this 6th day of Feb,
1997, at Fairbanks, Alaska.

Matthew E. York
NOTARY PUBLIC OF ALASKA

9/28/99
My Commission Expires

1054 Keda JOK WA.
Fairbanks, AK 99709
Feb. 11, 1997

Pete Kelley,

We are writing to express our support of H.B. 6. We believe that passage of this bill will serve as a deterrent for those teens who commit a second misdemeanor or first time felony.

We also believe the public has the right to know which teens are serious or repeat offenders.

Sincerely,

Bill and Donna Brewer

2/10/97

TO: Representative Green , Chair
House Judiciary Committee

FROM: Joan Foote
P.O. Box 80809
Fairbanks, AK 99708

Thank you for holding a teleconference on HB6. I am sorry my schedule will not allow me to deliver my comments in person.

I encourage you and your committee to support and promote HB6, which removes confidentiality from the juvenile justice system in a tiered manner.

I consider myself a concerned citizen with no special expertise. However after watching our local community be terrorized by juveniles and after listening to presentations and input by judges, intake officers, probate officers, Department of Family and Youth Service agents, lawyers and even adults with past juvenile delinquent records in our community study group, I am left with the following five impressions:

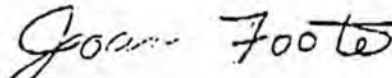
- 1) The juvenile judicial system needs help.
- 2) No infraction of the law is too minor to be overlooked. All infractions must have corrective consequences that make an impact.
- 3) The consequences must be timely, the sooner the better. Not next month, or next year.
- 4) The entire judicial process must be open, at least for repeat offenders.
-Give the offender one (or at most 2) chances where the offense and consequence are kept confidential.
-If additional offenses occur, confidentiality serves no healthy purpose. The offender needs to realize his/her actions are not OK by the entire community. Victims and other community members need to know when the system IS working and when it IS NOT working. This cannot be done when the proceedings occur in a vacuum.
- 5) The community must be willing to get involved.

Some feel confidentiality protects the future job chances of an ex juvenile delinquent. I feel that employers would be impressed when they know someone has overcome past problems or is working very hard toward that goal. Likewise the realization that the community is behind the positive development of an ex delinquent should give him the added impetus to make a greater effort.

Both HB6 and HB3 address the confidentiality problems. PLEASE SUPPORT THESE MEASURES.

Thank you for your time.

Sincerely,


Joan Foote

02/07/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
12:59:20 PARTICIPANT LIST (ALL PARTICIPANTS) BY:MAT
TCN:70202 SCHEDULED FOR:02/07/97 13:00 TO 15:00 FOR:MAT
PUBLIC HEARING HOUSE JUDICIARY

LOCATION: MATSU

HB 3	MR	JOSH	CULBERTSON	TESTIFY
HB 3	MR	JASON	CHAPMAN	OBSERVE
HB 3	MR	ADAM	WILL	OBSERVE

02/07/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
13:08:32 PARTICIPANT LIST (ALL PARTICIPANTS) BY:FBX
TCN:70202 SCHEDULED FOR:02/07/97 13:00 TO 15:00 FOR:FBX
PUBLIC HEARING HOUSE JUDICIARY

LOCATION: FAIRBANKS

HB 6	MR.	AL	NEAR	TESTIFY
HB 6	MS.	JUDY	SHIFFLER	TESTIFY
HB 6	MS.	LORENA	HEGDAL	TESTIFY
HB 6	MS.	CAM	CARLSON	TESTIFY

02/07/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
13:27:49 PARTICIPANT LIST (ALL PARTICIPANTS) BY:FBX
TCN:70202 SCHEDULED FOR:02/07/97 13:00 TO 15:00 FOR:FBX

PUBLIC HEARING HOUSE JUDICIARY

LOCATION: FAIRBANKS

HB	6	MR.	AL	NEAR	TESTIFY
HB	6	MS.	JUDY	SHIFFLER	TESTIFY
HB	6	MS.	LORENA	HEGDAL	TESTIFY
HB	6	MS.	CAM	CARLSON	TESTIFY
ALL ITEMS		MR.	ERDIE	MANZIE	TESTIFY

new addition

02/07/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
13:36:16 PARTICIPANT LIST (ALL PARTICIPANTS) BY:FBX
TCN:70202 SCHEDULED FOR:02/07/97 13:00 TO 15:00 FOR:FBX

PUBLIC HEARING HOUSE JUDICIARY

LOCATION: FAIRBANKS

HB	6	MS.	JUDY	SHIFFLER	TESTIFY
HB	6	MS.	LORENA	HEGDAL	TESTIFY
HB	6	MS.	CAM	CARLSON	TESTIFY
ALL ITEMS		MR.	AL	NEAR	TESTIFY
ALL ITEMS		MR.	ERNIE	MANZIE	TESTIFY

02/07/97 14:13:58 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCEKK IN FAIRBANKS

LTN1120
JNU

RE TCN: 70202 SCHEDULED FOR:02/07/97 13:00 TO 15:00
SPONSOR: HOUSE JUDICIARY PURPOSE: PUBLIC HEARING

MESSAGE TEXT: MS.HEGDAL HAD TO LEAVE FOR HB 6

one more gone...

02/07/97 14:28:46 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCEKK IN FAIRBANKS

LTN1120
JNU

RE TCN: 70202 SCHEDULED FOR:02/07/97 13:00 TO 15:00
SPONSOR: HOUSE JUDICIARY PURPOSE: PUBLIC HEARING

MESSAGE TEXT: MS. SHIFFLER HAD TO LEAVE

We will hear testimony on HB3 and HB 6 today. There will be further hearings on HB 6 on Monday. ^{# depending on today's debate} We will also hear a related bill, HCR 4 on Monday. Any witnesses who would like the LIO open for listening on Monday please let the Committee know. Also, if you wish to receive copies of ^a ~~any~~ Committee Substitute for the current bill^s please be sure to put your address or fax number on the witness sheet so that we may provide you with a copy. ^{3 may also be held over.}

There will be a three minute time limit on testimony.

We will begin with consideration of HB3. Time will not allow a second three minutes today for separate testimony on HB 6--so, you may divide your three minutes between HB3 and HB 6 as you choose.

However, keep in mind that HB6 will be held over for further hearing next week, so there will be another opportunity to testify regarding HB 6.

Alaska State Legislature



House of Representatives

Official Business

COMMITTEE ON RULES

State Capitol Rm 204
Juneau Ak 99801-1182

Sectional Analysis HB 3

What Follows is a summary of HB 3. Please read HB 3 for a full account of its content.

- Sec. 1. Amends AS 47.12.310(c), public records, to allow law enforcement officials to release a juvenile's name, the names of the parents of the juvenile, the date and place of the juvenile's offense and a description and nature of the juvenile's offense if the juvenile's offense would be considered a felony had the juvenile been an adult. The information may be released to school officials, the public and victims.

Alaska State Legislature



House of Representatives

Official Business

COMMITTEE ON RULES

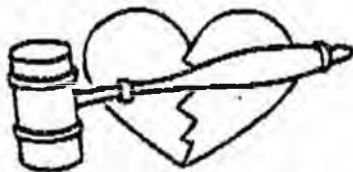
State Capitol Rm 204
Juneau Ak 99801-1182

Sponsor Statement HB 3

While adult crime is on the decline juvenile crime continues to increase in number and level of violence. House Bill No. 3 makes it possible for law enforcement agencies to release certain information about minors when minors commit crimes that would be considered felonies if the minors were adults.

The objectives of this bill are to ensure public safety and to deter future acts of these particularly heinous crimes. Information may be disclosed to the public, school officials and victims. The information is released after an arrest is made.

I encourage you to support this bill for the value of its public benefits.

VICTIMS

for Justice 619 East Fifth Avenue • Anchorage, AK 99501
(907) 278-0977 • Fax: (907) 258-0740

February 3, 1997

The Honorable Pete Kott
Alaska House of Representative
Juneau, AK 99801-1182

Dear Representative Kott:

I am writing to you to voice Victims for Justice's support of HB 3 - "to allow law enforcement officials to release a juvenile's name, the names of the parents of the juvenile, the date and place of the juvenile's offense and a description and nature of the juvenile's offense if the juvenile's offense would be considered a felony had the juvenile been an adult. The information may be released to schools officials, the public and victims."

The escalation of violent crimes committed by juveniles is terrifying and will only begin to diminish when these juvenile offenders clearly understand that there will be immediate and serious consequences for their violent criminal behavior. Not keeping their violent behavior a secret is one way to communicate to these juveniles and their parents that the community will be fully informed and will not tolerate their violent criminal behavior, regardless of the age!

Ask yourself this question, "Would you want to know about the neighborhood kid who at the age of 7 or 8 commits arson by burning down a mobile home, at the age of 15 rapes a little five year girl and while incarcerated in a juvenile detention center continues to exhibit deviant behavior?" So much deviant behavior that the authorities do not want to release him! Within a short time of his release from the detention center he points a *loaded* gun at the back of his friend's head and pulls the trigger. He calls this an accident. The jury, unaware of his violent criminal history, believes his story and convicts him of voluntary manslaughter. The parents of the murdered twenty-one year old girl and those who have become aware of his violent history do not believe his crime was an accident. He has manipulated the system for so many years that he got away with murder. This happened in Anchorage.

Holding minors responsible for their violent criminal behavior and keeping the community fully informed is the *right thing to do* to produce positive results.

Sincerely,

A handwritten signature in cursive script that reads "Janice Lienhart".

Janice Lienhart
Executive Director



LETTERS TO THE EDITOR

No consequences

Jan. 30, 1997

To the editor:

I have two responses to the article in Wednesday, Jan. 29, Fairbanks Daily News-Miner concerning public record of juvenile crime. I am strongly in favor and have been for some time. It is a shame that a few youth can do so much damage with no public consequences for them or for the parents.

Also, I had a real problem with Assistant Attorney General Knuth's comment—"Kids are impulsive, hormonally driven, (and have) bad impulsive control. Basically they're crazy until they get to a certain point in life's experiences."

This may be true of some kids. But not all. Kids will develop as allowed. Without discipline, guidelines and godly examples they are floundering for identity. With loving discipline and grounded in biblical truth this can be changed. We raised four teens and they were expected to demonstrate self-control. And yes, any kid, when taught, expected and encouraged, can control what they wish to control. I pastor 28 teen-agers and "crazy" habits and actions are not a part of their normal behavior. They have learned self-control skills. Sure they struggle with some of the issues of being teens, but they deal with them in God's way.

Taking away discipline and

consequences for actions leads to the attitudes and action Ms. Knuth deals with and the crime rage of the day. Parents, your children do not need to grow up uncontrollable and undisciplined. Take control.
Bob Harris
Fairbanks



NATIONAL ASSOCIATION OF SOCIAL WORKERS
ALASKA CHAPTER

525 Main Street, Juneau AK 99801
586-4438 1-800-478-6279 Fax: 586-4439
naswak@alaska.net

Testimony Regarding

HB 6 and HB 3: RELEASE OF INFORMATION ABOUT MINORS

Before the
JUDICIARY COMMITTEE
ALASKA HOUSE OF REPRESENTATIVES
February 6, 1997

Presented by
Angela M. Salerno, ACSW
Executive Director,
National Association of Social Workers Alaska Chapter



ALASKA CHAPTER

NATIONAL ASSOCIATION OF SOCIAL WORKERS ALASKA CHAPTER

525 Main Street, Juneau AK 99801
586-4438 1-800-478-6279 Fax: 586-4439
naswak@alaska.net

The National Association of Social Workers (NASW) is the world's largest organization of professional social workers. NASW's 155,000 members nationwide and 460 in Alaska work in a wide range of settings at all levels in the public and private sectors. Professional social workers focus on vulnerable populations and promote state and federal policies which enhance the lives of the people we serve.

Thank you for the opportunity to address the Committee on HB 3 and HB 6- Release of Information About Minors.

NASW opposes HB 3 and HB 6 and does not recommend their passage. These proposed amendments to the Alaska Children's Code represent a dramatic and fundamental change to the state's juvenile justice system. Because the basic function of the juvenile system is rehabilitation as well as accountability, juvenile arrest and court proceedings have traditionally remained closed to the public. This offers the youth protection from labeling, and lifelong community sanction for acts committed before adulthood. The juvenile system places an emphasis on the youthful offenders eventual reintegration and reentry into society.

The suspension of confidentiality in the juvenile justice system will create a new class of youth for whom the criminal justice system will be responsible. With the release of confidential information, even youth who commit minor crimes will become de facto adults in the eyes of the law and the community. Some youth will see this as a "badge of honor" and support for continued criminal activity. Others will be shunned and labeled, and ultimately ostracized by the community. This is a radical step for which we have no data concerning expected outcomes.

Alaska is already "tough on juvenile crime." It is a misperception that "nothing happens" to juveniles who commit crimes. The confidentiality of juvenile cases, combined with the emphasis on rehabilitation, may lead to the impression that no sanctions, punishment or measures to hold the juvenile responsible are now in place. In fact Alaska ranks second in the nation for the percentage of its juveniles who are locked up, and second in the length of time that juveniles are locked up. Those who deal with juvenile offenders - the courts and probation officers - have a number of choices or dispositions: waiver to adult courts for the most serious offenses, adjudication and probation, or in more severe cases, institutionalization in long-term detention and treatment facilities. For minor offenses, informal adjustments such as restitution, prevention and treatment programs, or victim-offender mediation are routinely and effectively ordered.

Releasing the names of juvenile offenders and their parents will not deter the youth from future crime. The goal of the juvenile system is to help youths in trouble become law-abiding citizens. Removing the protection that confidentiality provides kids will result in labeling, ostracization from the community and a greater chance that the youth will be unemployable and more likely to resort to further crime. Further, releasing the names of parents could impact their future employability as well as social standing in the community. Some parents who must endure the pressure of widespread publicity could become even less involved in their children's lives, and further disrupt the life of the family.

HB 3 and HB 6 propose suspension of confidentiality even before a minor is adjudicated, and creates a "guilty before being found guilty" situation. HB 3 would allow the release of confidential information upon a minor's arrest for an alleged felony or second misdemeanor or felony. Once the minor's name is released, available to the press, the media will try the case, and even if insufficient evidence is brought forth and the case is dismissed, those youth will bear the damage of being labeled.

HB 6 proposes to suspend confidentiality when a probation officer decides not to adjudicate, but to adjust the case informally. Adjustment is often chosen for non-violent offenses that do not present life threatening dangers to public safety. Case adjustment offers the opportunity for competency building and socialization in non-violent youth offenders,

and perhaps the opportunity to guide the youth away from further crime. Probation officers can require payment of restitution, family counseling, community work service or completion of a variety of diversion and treatment programs. The officer can also refer the victim and offender to voluntary mediation - a tool of "restorative justice." Restorative justice, a fairly new philosophical framework for dealing with juvenile crime, identifies crime as harm done to both victims and the community. It prioritizes restoration as a goal of the justice process. Through efforts to mend and strengthen the social fabric of communities, it is more concerned with "making things right" than with fixing blame or meting punishment. Dramatically different from retributive justice - the prevailing system which concentrates on legal infringement, penalties, and deterrence - restorative justice is nevertheless a powerful tool for addressing crime in an effective way. According to the Alaska Judicial Council, the department resolves most juvenile cases through adjustment, and a large majority of juveniles whose cases are adjusted do not return to the juvenile system. By releasing the names and circumstances around case adjustments we may negate the role of treatment, diversion, prevention and restorative justice in the community.

Juvenile crime is closely associated with problems the youth has no control over. Breaching confidentiality will not address the real problems behind juvenile crime. The past twenty years have seen dramatic changes in the make-up of our communities and an overall worsening of many social problems. Some of the factors relating to increased juvenile crime include:

- the sheer number of young people in Alaska - between 1980 and 1990, the nation as a whole experienced a 1% increase in its juvenile population. During the same time period Alaska's juvenile population increased 40%. (National Council on Crime and Delinquency). In 1990, youth between the ages of 0-19 made up 33.8% of Alaska's population (US Census Bureau).
- poverty is closely linked to juvenile crime. Each year in Alaska 24,701 children receive public assistance. (State of Alaska, Child Health Planning Work Group). Since 1974, poverty rates have been higher for juveniles than for the elderly (OJJDP).
- abused juveniles are more likely to commit crimes. Each year in Alaska 3,575 cases of child abuse are verified. The state of Alaska receives over 15,000 child abuse and neglect reports each year. (State of Alaska, Child Health Planning Work Group)
- many juvenile offenders live with single parents. Each year in Alaska, 31,705 children are living in single parent households. (State of Alaska, Child Health Planning Work Group).
- 1,900 Alaskan adolescents are homeless annually (Alaska DHSS).
- nearly 25% of Alaska's ninth graders do not graduate from high school four years later.

The problem of juvenile crime and the factors that are at work in causing it are complex, and troubling to the community. NASW supports a balanced and restorative approach to juvenile justice - one that promotes public safety, holds offenders accountable to victims, and provides competency development and socialization for offenders so they can reintegrate into society and become productive Alaskans. We recommend community-based programs of restorative justice, education and ongoing prevention. Breaching the confidentiality of minors will not get us where we want to go, and could in fact seriously backfire on us, creating criminals where now none exist.

Thank you, and I'll be available to the Committee anytime to answer questions.



NATIONAL ASSOCIATION OF SOCIAL WORKERS ALASKA CHAPTER

525 Main Street, Juneau AK 99801
586-4438 1-800-478-6279 Fax: 586-4439
naswak@alaska.net

NASW Alaska Policy Statement

Strengthening families and providing family support are priorities of the social work profession. Services designed to enhance family functioning should be provided in the spirit of respect for the integrity of the individual.

Juvenile Justice and Delinquency Prevention

The National Association of Social Workers (NASW) recommends that the following seven priority actions be considered to prevent juvenile crime and strengthen the juvenile justice system:

1. Adopt the recommendations of the Governor's Conference on Youth and Justice which emphasize prevention facilitated through neighborhood, business, city and state intervention.. Local jurisdictions should determine what proportion of youths are nonserious and nonchronic offenders who can be managed in the community without compromising public safety. Each jurisdiction should explore the potential for reallocating resources from the current large institutions to smaller, more focused, and community-based treatment facilities. For those youth who have committed crimes, NASW supports the Governor's Conference recommendation for a system of dual sentencing allowing serious offenders the option of remaining in the juvenile system.
2. Sanctions for non-violent offenders should be based on the concept of community-based restorative justice. Amend Alaska statute to authorize the establishment of community dispute resolution centers to facilitate mediation and resolution of disputes between juvenile offenders and their victims.
3. Develop quality, responsive juvenile court systems which pay greater attention to and provide for the due process rights of juveniles accused of delinquent acts. Placements out of the community should be limited to only those cases deemed most severe.
4. Retain in law confidentiality protections for all juvenile offenders.
5. Develop systems of collaboration among the various juvenile justice agencies. Jointly develop and agree on common goals, share responsibility and funding for obtaining these goals, and work together to achieve them, using the skills, resources, and expertise of each of the agency partners.
6. Promote the use of school social workers as primary providers of delinquency prevention services.
7. Develop quality treatment programs which include:
 - Treatment services emphasizing working with the entire family, rather than just the identified at-risk youth.
 - Developmentally appropriate substance abuse treatment.
 - A new and holistic approach to the placement and treatment of children and youth.
 - The development and funding of ethnic and culturally appropriate programs.
 - An emphasis on services and placements which meet the urgent needs of the youth over institutional needs.
 - Juvenile justice administrators who examine all their options and are willing to seek solutions which break the mold of their existing treatment systems and structures.
 - New and diverse programs that focus on the individual needs of youths and that meet the requirements of public safety.
 - The state's dual commitment to determining priorities and holding the providers of treatment services accountable for the results of their efforts.

FYI -

Fairbanks Moderator advised me that testifiers there are "very upset" because a 3 minute time limit ^{was} posted on testimony, but not enforced so far. The Fairbanks Moderator and I understand it's the Chairman's show, and none of our business how he runs it. However, he may catch some flack when we open up to Fairbanks testimony. Heads up! Will we get to teleconference testimony today?

0-LS0041\E

Chenoweth

2/5/97

Rep. Kott

CS FOR HOUSE BILL NO. 3()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES KOTT, Kelly

A BILL

FOR AN ACT ENTITLED

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

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

3 * Section 1. AS 47.12.310(c) is amended to read:

4 (c) A state or municipal law enforcement agency

5 (1) shall disclose information regarding a case that is needed by the
6 person or agency charged with making a preliminary investigation for the information
7 of the court under this chapter;

8 (2) may disclose to the public upon request but may not report to
9 the Department of Public Safety under AS 12.62.120

10 (A) the following information about a minor when the minor
11 has been arrested for commission of an offense, the minor committed the
12 offense on or after the effective date of this Act, and the offense is one that
13 would have been a felony if committed by an adult:

14 (i) the minor's name;

15 (ii) the name of the minor's parent or parents;

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

FYI -

Fairbanks Moderator advised me that testifiers there are "very upset" because a 3 minute time limit ^{was} posted on testimony, but not enforced so far. The Fairbanks Moderator and I understand it's the Chairman's Show, and none of our business how he runs it. However, he may catch some flack when we open up to Fairbanks testimony. Heads up! Will we get to teleconference testimony today?

FAIRBANKS IS GETTING ANGRY -

UPSET ABOUT 3 MINUTE
LIMIT NOT BEING ENFORCED

WERE IN DISCUSSION
NOT DIRECT TESTIMONY

0-LS0041VE
Chenoweth
2/5/97
Rep. Kott

CS FOR HOUSE BILL NO. 3()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KOTT, Kelly

A BILL

FOR AN ACT ENTITLED

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

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

3 * Section 1. AS 47.12.310(c) is amended to read:

4 (c) A state or municipal law enforcement agency

5 (1) shall disclose information regarding a case that is needed by the
6 person or agency charged with making a preliminary investigation for the information
7 of the court under this chapter;

8 (2) may disclose to the public upon request but may not report to
9 the Department of Public Safety under AS 12.62.120

10 (A) the following information about a minor when the minor
11 has been arrested for commission of an offense, the minor committed the
12 offense on or after the effective date of this Act, and the offense is one that
13 would have been a felony if committed by an adult:

14 (i) the minor's name;

15 (ii) the name of the minor's parent or parents;

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(iii) the date and place of the offense; and

(iv) a description of the nature of the offense; and

(B) information regarding a criminal offense, other than an offense for which a disclosure may be made under (A) of this paragraph,

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 regarding the minor's arrest, including copies of reports [AS NECESSARY FOR CIVIL LITIGATION OR INSURANCE CLAIMS PURSUED BY OR AGAINST THE VICTIM].

* Sec. 2. AS 47.12.320(a) is amended to read:

(a) A person to whom disclosure is made under this section may not disclose confidential or privileged information about the minor to a person not authorized to receive it. Notwithstanding AS 47.12.300 and 47.12.310,

(1) a parent or legal guardian of a minor subject to a proceeding under this chapter may disclose confidential or privileged information about the minor, including information that has been lawfully obtained from agency or court files, to the governor, the lieutenant governor, a legislator, the ombudsman appointed under AS 24.55, the attorney general, and the commissioners of health and social services, administration, or public safety, or an employee of these persons, for review or use in their official capacities;

(2) a victim to whom confidential or privileged information regarding a minor's arrest is disclosed under AS 47.12.310(c)(5) may disclose the information to the victim's insurance company as may be necessary for civil litigation or insurance claims pursued by or against the victim. [A PERSON TO WHOM DISCLOSURE IS MADE UNDER THIS SECTION MAY NOT DISCLOSE CONFIDENTIAL OR PRIVILEGED INFORMATION ABOUT THE MINOR TO A PERSON NOT AUTHORIZED TO RECEIVE IT.]

existing
-D
Section

parent or legal guardian
PART 1

1 * Sec. 3. AS 47.12.320(b) is amended to read:

2 (b) The disclosure right under (a)(1) [(a)] of this section is in addition to, and
3 not in derogation of, the rights of a parent or legal guardian of a minor.

0-LS0041VF
Chenoweth
2/19/97

*With same changes
as HBC, where
applicable.*

CS FOR HOUSE BILL NO. 3()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KOTT, Kelly, Cowdery

A BILL

FOR AN ACT ENTITLED

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

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

3 * Section 1. AS 47.12.310(c) is amended to read:

4 (c) A state or municipal law enforcement agency

5 (1) shall disclose information regarding a case that is needed by the
6 person or agency charged with making a preliminary investigation for the information
7 of the court under this chapter;

8 (2) may disclose to the public upon request but may not report to
9 the Department of Public Safety under AS 12.62.120

10 (A) information about a minor, limited to the minor's name,
11 the name of the minor's parent or parents, the date and place of the
12 offense, and a description of the nature of the offense, when the minor has
13 been arrested for commission of an offense, the minor allegedly committed
14 the offense on or after the effective date of this Act, and the offense that
15 the minor is alleged to have committed is

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- (i) a crime against a person that is punishable as a felony;
- (ii) an offense in which the minor employed a deadly weapon, as that term is defined in AS 11.81.900(b), in committing the crime;
- (iii) arson under AS 11.46.400 - 11.46.410;
- (iv) burglary under AS 11.46.300 - 11.46.310;
- (v) distribution of child pornography under AS 11.61.125;
- (vi) promoting prostitution in the first degree under AS 11.66.110; or
- (vii) misconduct involving a controlled substance under AS 11.71 involving the delivery of a controlled substance or the possession of a controlled substance with intent to deliver; and

(B) information regarding a criminal offense, other than an offense for which a disclosure may be made under (A) of this paragraph, 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 regarding the minor's arrest, including copies of reports [AS NECESSARY FOR CIVIL LITIGATION OR INSURANCE CLAIMS PURSUED BY OR AGAINST THE VICTIM].

* Sec. 2. AS 47.12.320(a) is amended to read:

(a) A person to whom disclosure is made under this section may not disclose confidential or privileged information about the minor to a person not authorized to receive it. Notwithstanding AS 47.12.300 and 47.12.310,

(1) a parent or legal guardian of a minor subject to a proceeding under this chapter may disclose confidential or privileged information about the minor,

1 including information that has been lawfully obtained from agency or court files, to
2 the governor, the lieutenant governor, a legislator, the ombudsman appointed under
3 AS 24.55, the attorney general, and the commissioners of health and social services,
4 administration, or public safety, or an employee of these persons, for review or use in
5 their official capacities;

6 (2) a victim to whom confidential or privileged information
7 regarding a minor is disclosed under AS 47.12.310(c)(5) may disclose the
8 information to the victim's insurance company as may be necessary for civil
9 litigation or insurance claims pursued by or against the victim. [A PERSON TO
10 WHOM DISCLOSURE IS MADE UNDER THIS SECTION MAY NOT DISCLOSE
11 CONFIDENTIAL OR PRIVILEGED INFORMATION ABOUT THE MINOR TO A
12 PERSON NOT AUTHORIZED TO RECEIVE IT.]

13 * Sec. 3. AS 47.12.320(b) is amended to read:

14 (b) The disclosure right under (a)(1) [(a)] of this section is in addition to, and
15 not in derogation of, the rights of a parent or legal guardian of a minor.

0-LS0063R
Chenoweth
2/18/97

CS FOR HOUSE BILL NO. 6()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KELLY, Therriault, Vezey, Ogan, Dyson, Phillips, Ryan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to minors and amending laws relating to the disclosure of
2 information relating to certain minors."

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

4 * Section 1. AS 47.12.300(c) is amended to read:

5 (c) Except when disclosure of the name of a minor is authorized or
6 required by this chapter, the [THE] name or picture of a minor under the jurisdiction
7 of the court may not be made public in connection with the minor's status as a
8 delinquent unless authorized by order of the court.

9 * Sec. 2. AS 47.12.310(a) is amended to read:

10 (a) Except as specified in AS 47.12.315, 47.12.320, [AS 47.12.320] and (b) -
11 (g) of this section, all information and social records pertaining to a minor who is
12 subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state,
13 or municipal agency or employee in the discharge of the agency's or employee's
14 official duty, including driver's license actions under AS 28.15.185, are privileged and

1 may not be disclosed directly or indirectly to anyone without a court order.

2 * Sec. 3. AS 47.12.310(d) is amended to read:

3 (d) Upon request of a victim, the department shall make every reasonable
4 effort to notify the victim as soon as practicable, by telephone or in writing, when a
5 delinquent minor is to be released from placement in a juvenile facility under
6 AS 47.12.120(b)(1). The notice under this subsection must include the expected date
7 of the delinquent minor's release, the geographic area in which the delinquent minor
8 is required to reside, and other pertinent information concerning the delinquent minor's
9 conditions of release that may affect the victim.

10 * Sec. 4. AS 47.12 is amended by adding a new section to read:

11 **Sec. 47.12.315. Public disclosure of information in agency records relating**
12 **to certain minors.** (a) Notwithstanding AS 47.12.310, when an agency takes action
13 under AS 47.12.040(a)(1) to adjust a matter, or when under AS 47.12.040(a)(2) the
14 court directs the agency to adjust the matter, the agency shall disclose to the public the
15 name of a minor, the name or names of the parent, parents, or guardian of the minor,
16 the action required by the agency to be taken by the minor under AS 47.12.060 to
17 adjust the matter, and information about the offense exclusive of information that
18 identifies the victim of the offense, if exercise of agency jurisdiction is based on

19 (1) the minor's alleged commission of an offense, and the minor has
20 failed, without good cause,

21 (A) to comply with the terms of a restitution plan or order
22 entered against the minor in a previous criminal sentence, adjudication of
23 delinquency, or informal adjustment following a preliminary inquiry;

24 (B) to engage in a rehabilitation program ordered by a court or
25 required by a facility or juvenile probation officer; or

26 (C) to comply with a court ordered or probation officer required
27 placement plan; or

28 (2) the minor's alleged commission of

29 (A) a crime against a person that is punishable as a felony;

30 (B) a crime in which the minor employed a deadly weapon, as
31 that term is defined in AS 11.81.900(b), in committing the crime;

- 1 (C) arson under AS 11.46.400 - 11.46.410;
2 (D) burglary under AS 11.46.300 - 11.46.310;
3 (E) distribution of child pornography under AS 11.61.125;
4 (F) promoting prostitution in the first degree under
5 AS 11.66.110; or
6 (G) misconduct involving a controlled substance under
7 AS 11.71 involving the delivery of a controlled substance or the possession of
8 a controlled substance with intent to deliver.

9 (b) The department shall publicly disclose the name of a minor, the name or
10 names of the minor's parent, parents, or guardian, and the alleged offense, and, when
11 available, the outcome of proceedings before the court if, under AS 47.12.040(a)(1)(B)
12 or AS 47.12.040(a)(2), the department files with the court a petition seeking
13 adjudication of the minor as a delinquent based on

14 (1) the minor's alleged commission of an offense, and the minor has
15 failed, without good cause,

16 (A) to comply with the terms of a restitution plan or order
17 entered against the minor in a previous criminal sentence, adjudication of
18 delinquency, or informal adjustment following a preliminary inquiry;

19 (B) to engage in a rehabilitation program ordered by a court or
20 required by a facility or juvenile probation officer; or

21 (C) to comply with a court ordered or probation officer required
22 placement plan;

23 (2) the minor's alleged commission of

24 (A) a crime against a person that is punishable as a felony;

25 (B) a crime in which the minor employed a deadly weapon, as
26 that term is defined in AS 11.81.900(b), in committing the crime;

27 (C) arson under AS 11.46.400 - 11.46.410;

28 (D) burglary under AS 11.46.300 - 11.46.310;

29 (E) distribution of child pornography under AS 11.61.125;

30 (F) promoting prostitution in the first degree under
31 AS 11.66.110; or

1 (G) misconduct involving a controlled substance under
2 AS 11.71 involving the delivery of a controlled substance or the possession of
3 a controlled substance with intent to deliver; or

4 (3) the minor's alleged commission of a felony and the minor was 16
5 years of age or older at the time of commission of the offense when the minor has
6 previously been convicted or adjudicated a delinquent minor based on the minor's
7 commission of an offense that is a felony.

8 (c) When, under AS 47.12.120(c), the court finds that a minor is not
9 delinquent and dismisses the case against the minor, the minor may request the
10 department to disclose information about the case to the public. If the minor makes
11 a request under this subsection, the department shall disclose to the public the name
12 of the minor, the name or names of the parent, parents, or guardian of the minor,
13 information about the offense alleged to have been committed by the minor, and
14 information about the disposition of the case under AS 47.12.120(c), exclusive of
15 information that identifies the victim of the alleged offense.

16 (d) When required by this section to disclose information,

17 (1) the department or other agency may not disclose the name of an
18 out-of-home care provider, as that term is defined in AS 47.14.299, with whom the
19 minor was living at the time the minor was alleged to have committed the offense if
20 the minor had been placed in out-of-home care with that provider on other than a
21 permanent or long-term basis;

22 (2) if the department or other agency maintains the information to be
23 disclosed by electronic means that can be recovered from a computer data base, the
24 department or agency may disclose the information in that medium; the authority to
25 release information under this paragraph is limited to five years from the date the
26 department or other agency is first required or authorized to make the disclosure, but
27 this limitation operates only if the department or other agency determines that the
28 minor

29 (A) has made all restitution payments required of the minor by
30 AS 47.12.060(b) or 47.12.120(b)(4); and

31 (B) has not committed any other crime punishable as a felony

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during the five-year period.

HOUSE BILL NO. 3 (relating to disclosures of information about certain minors)

AMENDMENT NO. _____

Page 1, line 8:

(2) shall, unless the agency determines that in the circumstances of the specific case the prejudice to the minor outweigh the interests of the public, [may] disclose to the public upon request but may not report to

Page 2, l. 7:

(3) shall [may] disclose to school officials information regarding a case as may

Page 2, l. 9:

(4) shall [may] disclose to the public information regarding a case as may be

Page 2, l. 11:

(5) shall [may] disclose to a victim information regarding the minor's arrest,

Justification: *In the present law and in the current version of HB 3, the authority to release certain types of information on juvenile offenders is purely discretionary, i.e., the agency "may" disclose but is not obligation to disclose. ["May" is used to grant discretionary authority and "shall" is used to require a particular action; see Legislative Drafting Manual, Ch. 2.] No standards are given for exercise of the discretion, so the decision is left with complete discretion and no standards for its exercise. This amendment makes disclosure mandatory unless the agency affirmatively finds that the prejudice to the minor of disclosure outweighs the public interest in the circumstances of a particular case.*

ONE OR TWO YEARS ARE REFERRED FOR MOST SUBJECT TO THE PROVISIONS OF THE COMMERCIAL CODE OF ANY APPLICABLE COLLECTION AGREEMENT	DEPOSIT TICKET	<input checked="" type="checkbox"/> CASH ▶
	MICHAEL J. KIRK P. O. BOX 02844 JUNEAU, AK 99802	89-7004/3252 0023047805
	PHONE/FAX: (207) 586-4318	C H E C K S
	DATE _____ 19 _____	CHECK OR TOTAL FROM OTHER SIDE ▶
	DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL	SUB TOTAL ▶
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	Alaska Federal Savings Bank JUNEAU BRANCH 301 N. FRANKLIN ST. JUNEAU, ALASKA 99801	\$

HB

6

(7)

Date Referred to Committee: January 31, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/19/97

The JUDICIARY Committee considered:

HB 6

HOUSE BILL NO. 6

RELEASE OF INFORMATION ABOUT MINORS

"An Act amending laws relating to the disclosure of information relating to certain minors."

recommends it be replaced with the following committee substitute

CS HB 6 (JUD)

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)

[7] fiscal note(s) HSS/DFYS; SC, SE, NORTH, [] fiscal note(s) _____

PROBA., RES. CC., Mc LAUGHLIN & CENTRAL

[2] zero fiscal note(s) PUB. SAFETY, HSS -

FOSTER CARE

[2] zero fiscal note(s) ADMIN. PUB. DEF. & LAW,

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i> RICE BERG				✓
<i>[Signature]</i> PORTER	✓			
<i>[Signature]</i> GREEN	✓			
<i>[Signature]</i> JAMES			✓	
<i>[Signature]</i> BERKOWITZ			✓	
<i>[Signature]</i> CROFT				✓
<i>[Signature]</i> BUNDE	✓			

CHAIR'S SIGNATURE _____

The table below summarizes the fiscal notes for DFYS components which will be impacted if HB 6 passes. The loss of federal IVE revenue will be caused by the disclosure of information from DFYS juvenile delinquency records because DFYS will not be able to claim those particular funds once information from those records is no longer confidential. The restructuring costs are related to the need to administratively separate the youth corrections programs from the child protection programs, including the associated costs, to prevent the additional loss of funds currently claimed for child protection clients.

Total Costs due to Loss of IVE Revenue and Restructuring						
	IVE Revenue			Cost of	Total Cost	Total Cost
	Loss	PCN#	Position	Restructure	of Restructure	
Southeast		06-3482	Delete Regional Admin.	(\$82,600.00)		
		new	SW V	\$73,800.00		
	\$44,200				(\$8,800.00)	\$35,400
Southcentral		06-3482	Delete Regional Admin.	(\$92,200.00)		
		new	SW V	\$73,800.00		
	\$157,500				(\$18,400.00)	\$139,100
Northern		06-3218	Delete Reg. Admin.	(\$99,900.00)		
		06-3201	Delete SW V/Bethel	(\$91,100.00)		
		06-3089	Delete SW V/Nome	(\$98,300.00)		
		new	SW V / Fairbanks	\$77,100.00		
	\$113,800				(\$212,200.00)	(\$98,400)
Central Office		new	Admin Clerk II	\$37,300.00		
		new	CPS Admin Officer	\$83,300.00		
	\$80,000				\$120,600.00	\$200,600
Probation Serv.		new	Youth Supt. II	\$73,800.00		
		new	Chief Prob. Officer	\$83,900.00		
		new	3 Admin Clerk II	\$112,000.00		
		new	3 Admin. Assts.	\$138,600.00		
		new	Juvenile Prob. Off V	\$74,300.00	\$482,600.00	\$482,600
McLaughlin YC		06-3483	downgrade Supt. II	(\$24,100.00)	(\$24,100)	(\$24,100)
Foster Care	\$18,600					\$18,600
Residential Care	\$284,100					\$284,100
Total	\$698,200				\$339,700	\$1,037,900

Fiscal notes are developed on each bill as if that were the only bill to become law. There has been no attempt to duplicate costs across these bills but to accurately represent the cost associated by each bill on its own merits.

The fiscal notes for HG 6 reflect the costs for both the loss of funds and the restructuring because, standing alone, passage of this bill will result in both occurrences.

The fiscal note for HCR 4 currently reflects 0 fiscal impact because the original bill only addressed the separation of records. Since DFYS already maintains separate records for child protection cases and delinquency cases, the bill would have no impact since it does not mandate the disclosure of information. If the proposed CS is adopted, the department will submit a fiscal note reflecting only the cost of restructuring the Division of Family & Youth Services.

HB 3 carries a 0 fiscal note because the information to be disclosed does not come from DFYS records.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CS HB 6(HES)

Revision Date: _____
 Title: Relating to the disclosure of information
relating to certain minors
 Sponsor: Representative Kelly
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Northern Region
 COMPONENT SERIAL NO. 255
 See also (SN#): 252,253,254,258,259,264,2134.

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES	()					
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(113.8)	(113.8)	(113.8)	(113.8)	(113.8)	(113.8)
1003 GF Match						
1004 GF	(98.4)	(98.4)	(98.4)	(98.4)	(98.4)	(98.4)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)	(212.2)

POSITIONS:

FULL-TIME	-2					
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

The Division of Family and Youth Services currently receives approximately \$7.5 M in federal funds as reimbursement for foster care and administrative services provided to Children in Need of Aid (CINA) and Delinquents. Federal law prohibits disclosure of information regarding DFYS clients except in certain circumstances. In order to disclose information on juvenile offenders as described in this bill and still minimize the loss of federal funds, the division must revise the organizational and financial structure of the agency to clearly separate costs and services associated with juvenile offenders from those associated with CINA's and must discontinue claiming federal reimbursement for those costs and services. This restructuring will preserve the majority of federal receipts but will still result in some reductions which must be replaced by general funds. This fiscal note reflects the costs associated with that restructuring and the reduction in federal claims.

In addition to the ability to disclose information, the division will be able to improve the consistency, coordination, and quality of services provided to communities and offenders by more clearly focusing the leadership provided to the youth corrections section

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 907 465-3191
 Date: 02/10/97
 Date: 2/12/97

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ANALYSIS (cont.):

Loss of Federal Funds: (\$113.8)

Change in positions:

Delete Regional Administrator PCN 06-3218 (\$99.9)

Delete Social Worker V in Bethel PCN 06-3201 (\$91.1)

Delete Social Worker V in Nome PCN 06-3089 (\$98.3)

New PCN Social Worker V in Fairbanks \$77.1

Total (\$212.2)

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CS HB 6(HES)

Revision Date: _____
 Title: Relating to the disclosure of information
relating to certain minors
 Sponsor: Representative Kelly
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Southcentral Region
 COMPONENT SERIAL NO. 254
 See also (SN#): 252,253,255,258,259,264,2134

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	(18.4)	(18.4)	(18.4)	(18.4)	(18.4)	(18.4)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(18.4)	(18.4)	(18.4)	(18.4)	(18.4)	(18.4)

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES	()					
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(157.5)	(157.5)	(157.5)	(157.5)	(157.5)	(157.5)
1003 GF Match						
1004 GF	139.1	139.1	139.1	139.1	139.1	139.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	(18.4)	(18.4)	(18.4)	(18.4)	(18.4)	(18.4)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

The Division of Family and Youth Services currently receives approximately \$7.5 M in federal funds as reimbursement for foster care and administrative services provided to Children in Need of Aid (CINA) and Delinquents. Federal law prohibits disclosure of information regarding DFYS clients except in certain circumstances. In order to disclose information on juvenile offenders as described in this bill and still minimize the loss of federal funds, the division must revise the organizational and financial structure of the agency to clearly separate costs and services associated with juvenile offenders from those associated with CINA's and must discontinue claiming federal reimbursement for those costs and services. This restructuring will preserve the majority of federal receipts but will still result in some reductions which must be replaced by general funds. This fiscal note reflects the costs associated with that restructuring and the reduction in federal claims.

In addition to the ability to disclose information, the division will be able to improve the consistency, coordination, and quality of services provided to communities and offenders by more clearly focusing the leadership provided to the youth corrections section



Approved by Commissioner:
 Agency:

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services
Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 02/10/97

Date: 2/12/97

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ANALYSIS (cont.):

Loss of Federal Funds:	(\$157.5)
Change in positions:	
PCN 06-3482 Regional Administrator, Range 23 is deleted	(\$92.2)
New PCN Social Worker V, Range 21	\$73.8
Total	(\$18.4)

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CS HB 6(HES)

Revision Date: _____
 Title: Relating to the disclosure of information
relating to certain minors
 Sponsor: Representative Kelly
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Southeastern Region
 COMPONENT SERIAL NO. 258
 See also (SN#): 252,253,254,255,259,264,2134

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	(8.8)	(8.8)	(8.8)	(8.8)	(8.8)	(8.8)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(8.8)	(8.8)	(8.8)	(8.8)	(8.8)	(8.8)

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY98	FY99	FY00	FY01	FY02	FY03
1002 Federal Receipts	(44.2)	(44.2)	(44.2)	(44.2)	(44.2)	(44.2)
1003 GF Match						
1004 GF	35.4	35.4	35.4	35.4	35.4	35.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	(8.8)	(8.8)	(8.8)	(8.8)	(8.8)	(8.8)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

The Division of Family and Youth Services currently receives approximately \$7.5 M in federal funds as reimbursement for foster care and administrative services provided to Children in Need of Aid (CINA) and Delinquents. Federal law prohibits disclosure of information regarding DFYS clients except in certain circumstances. In order to disclose information on juvenile offenders as described in this bill and still minimize the loss of federal funds, the division must revise the organizational and financial structure of the agency to clearly separate costs and services associated with juvenile offenders from those associated with CINA's and must discontinue claiming federal reimbursement for those costs and services. This restructuring will preserve the majority of federal receipts but will still result in some reductions which must be replaced by general funds. This fiscal note reflects the costs associated with that restructuring and the reduction in federal claims.

In addition to the ability to disclose information, the division will be able to improve the consistency, coordination, and quality of services provided to communities and offenders by more clearly focusing the leadership provided to the youth corrections section

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 02/10/97
 Date: 2/12/97

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ANALYSIS (cont.):

Loss of Federal Funds:	(\$44.2)
Change in positins:	
PCN 06-3482 Regional Administrator, Range 23 is deleted	(82.6)
New PCN Social Worker V, Range 21 is added	\$73.8
Total	(\$8.8)

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CS HB 6(HES)

Revision Date: _____
 Title: Relating to the disclosure of information
relating to certain minors
 Sponsor: Representative Kelly
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Family & Youth Services
 Component: Probation Services
 COMPONENT SERIAL NO. 2134
 See also (SN#): 252.253.254.255.258.259.264

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	482.6	489.8	497.2	504.6	512.2	519.9
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	482.6	489.8	497.2	504.6	512.2	519.9

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY98	FY99	FY00	FY01	FY02	FY03
1002 Federal Receipts						
1003 GF Match						
1004 GF	482.6	489.8	497.2	504.6	512.2	519.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	482.6	489.8	497.2	504.6	512.2	519.9

POSITIONS:

FULL-TIME	9					
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

The Division of Family and Youth Services currently receives approximately \$7.5 M in federal funds as reimbursement for foster care and administrative services provided to Children in Need of Aid (CINA) and Delinquents. Federal law prohibits disclosure of information regarding DFYS clients except in certain circumstances. In order to disclose information on juvenile offenders as described in this bill and still minimize the loss of federal funds, the division must revise the organizational and financial structure of the agency to clearly separate costs and services associated with juvenile offenders from those associated with CINA's and must discontinue claiming federal reimbursement for those costs and services. This restructuring will preserve the majority of federal receipts but will still result in some reductions which must be replaced by general funds. This fiscal note reflects the costs associated with that restructuring and the reduction in federal claims.

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Prepared by: L. Diane Worley, Director
 Division: Division of Family & Youth Svcs
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

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