

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004

10763 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

OUT OF STATE RESIDENTIAL CARE COST PROJECTION FY 03

B	C	D	E	F	G	H	I	J	K	L	M	N	O	
1														
2	DIVISION OF FAMILY & YOUTH SERVICES									As of 1/14/03	56	Clients in out-of-state residential 07/01/00		
3	OUT OF STATE RESIDENTIAL CARE FY03										26	FY03 Admits		
4	Prepared by: Lauri Ryals, Accounting Technician III										7	FY03 True Discharges		
5											75	Total Clients in OS Res/Grp Fac.		
6	Date Prepared/Updated.									3/3/2003 13:38				
7														
8	DIYS	OUT OF STATE	FACILITY			DOE	FS					FY03 EDUC	FY03 EDUC	FY03 PROJ
9	CLIENT	PLACEMENT	ADMIT			School	OR	Collocatio	FY03 SERVICE	FACILITY		ACTUAL PD	ESTIMATED	REMAINING
10	PROBER #	DATE	DATE	STATUS	REG	Dist	DJJ	Code	DATES	NAME		COSTS	COSTS	ED COSTS
11														
12														
13	217810102	08/20/02	8/20/2002	CURRENT	ARO	UNALASKA	FS	6213729	08/20/02-06/30/03	Christie School		\$7,446	\$21,624	\$14,178
14	401422638	08/20/01	8/20/2001	DISCHRD	ARO	ANCH	FS	6213729	07/01/02-08/12/02	Christie School		\$1,400	\$1,400	\$0
15	402501715	04/04/02	4/4/2002	CURRENT	SCRO	FBKS	FS	6213771	07/01/02-06/30/03	Christie School		\$8,874	\$24,684	\$15,810
16	401418312	09/24/01	9/24/2001	CURRENT	NRO	FBKS	FS	6213773	07/01/02-06/30/03	Christie School		\$8,772	\$24,684	\$15,912
17	406005161	06/06/02	6/6/2002	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Christie School		\$8,874	\$24,684	\$15,810
18	406032437	04/05/01	4/5/2001	DISCHRD	ARO	ANCH	FS	6213729	07/01/02-8/1/02	Christie School		\$1,400	\$1,400	\$0
19	5								\$102 day - Ed	TOTAL PROJ CHRISTIE SCH		\$36,766	\$98,476	\$61,710
20														
21	403020059	11/11/02	11/11/2002	CURRENT	SCRO	DILLINGHAM	FS	6213771	11/11/02-06/30/03	Cinnamon Hills		\$0	\$5,776	\$5,776
22	401180267	04/12/02	4/12/2002	CURRENT	SERO	JNU	FS	6213775	07/01/02-06/30/03	Cinnamon Hills		\$4,864	\$9,196	\$4,332
23	375424901	11/20/00	11/20/2000	DISCHRD	ARO	ANCH	DJJ	6663471	07/01/02-10/24/02	Cinnamon Hills		\$532	\$532	\$0
24	375439701	03/04/02	3/4/2002	CURRENT	SCRO	KODIAK	FS	6213771	07/01/02-06/30/03	Cinnamon Hills		\$4,864	\$9,196	\$4,332
25	400822255	08/27/02	8/27/2002	CURRENT	SERO	KETCH	FS	6213775	08/27/02-6/30/03	Cinnamon Hills		\$0	\$7,638	\$7,638
26	363021701	07/18/02	7/18/2002	CURRENT	SERO	JNU	FS	6213775	07/19/02-06/30/03	Cinnamon Hills		\$4,332	\$8,930	\$4,598
27	541151890	05/31/02	5/31/2002	CURRENT	SERO	JNU	FS	6213775	07/01/02-06/30/03	Cinnamon Hills		\$4,864	\$9,196	\$4,332
28	406032967	04/29/02	4/29/2002	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Cinnamon Hills		\$4,712	\$9,196	\$4,484
29	8								\$38/day	TOTAL PROJ CINNAMON HI		\$24,168	\$59,660	\$35,492
30														
31														
32	408300594	07/06/00	7/6/2000	TRANSFER	ARO	ANCH	FS	6213729	07/01/02-8/26/02	Intermountain Ctr - MT		\$660	\$660	\$0
33	403122611	04/01/02	4/1/2002	CURRENT	SCRO	SOLDOTNA	FS	6213771	07/01/02-06/30/03	Intermountain Ctr - MT		\$4,320	\$14,520	\$10,200
34	400607639	07/11/02	7/11/2002	CURRENT	SERO	JNU	FS	6213775	07/12/02-06/30/03	Intermountain Ctr - MT		\$4,200	\$14,400	\$10,200
35		01/01/03	1/1/2003	PENDING	ARO	ANCH	FS	6213729	01/01/03-06/30/03	Intermountain Ctr - MT		\$0	\$7,260	\$7,260
36	400802660	06/04/01	6/4/2001	CURRENT	SERO	JNU	FS	6213775	07/01/02-06/30/03	Intermountain Ctr - MT		\$4,380	\$14,520	\$10,140
37	403126884	02/28/02	2/28/2002	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Intermountain Ctr - MT		\$4,380	\$14,520	\$10,140
38	5								\$60/day	TOTAL PROJ INTERMT		\$17,940	\$65,880	\$47,940
39														
40	406011542	03/05/02	3/5/2002	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Lakeview - WI		\$6,565	\$15,730	\$9,165
41	408600824	05/07/99	2/20/2001	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Lakeview - WI		\$6,435	\$15,730	\$9,295
42	408015363	08/14/02	8/14/2002	CURRENT	ARO	ANCH	FS	6213729	08/14/02-06/30/03	Lakeview - WI		\$4,225	\$13,715	\$9,490
43	406026250	05/21/02	5/21/2002	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Lakeview - WI		\$6,565	\$15,730	\$9,165
44	406030467	12/14/01	12/14/2001	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Lakeview - WI		\$6,565	\$15,730	\$9,165
45	406017499	05/12/02	5/12/2002	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Lakeview - WI		\$6,565	\$15,730	\$9,165
46	6								\$65/day - Ed	TOTAL PROJ LAKEVIEW		\$36,920	\$92,365	\$55,445
47														
48	402102118	06/04/01	6/4/2001	CURRENT	NRO	FBKS	FS	6213773	07/01/02-06/30/03	San Marcos Psych		\$1,218	\$14,036	\$12,818
49	178779005	05/27/01	3/21/2002	CURRENT	SERO	JNU	FS	6213775	07/01/02-06/30/03	San Marcos Psych		\$1,218	\$14,036	\$12,818
50	351000608	06/29/97	2/2/2001	CURRENT	SCRO	MATSU	FS	6213771	07/01/02-06/30/03	The Oaks Psychiatric		\$0	\$14,036	\$14,036
51	3								\$58/day	TOTAL PROJ BROWN'S SCH		\$2,436	\$42,108	\$39,672
52														
53	402000325	11/17/00	11/17/2000	DISCHRD	NRO	FBKS	DJJ	6663473	07/01/02-07/20/02	The Pines		\$1,372	\$1,372	\$0
54	1								\$98.00/70.00-Ed	TOTAL PROJ THE PINES		\$1,372	\$1,372	\$0
55														
56	402504491	05/14/02	5/14/2002	CURRENT	ARO	ANCH	DJJ	6663471	07/01/02-06/30/03	Colorado Boys Ranch		\$0	\$21,739	\$21,739
57	401014501	08/16/02	8/16/2002	CURRENT	SCRO	PETELSBURG	DJJ	6663476	08/16/02-06/30/03	Colorado Boys Ranch		\$0	\$18,774	\$18,774
58	40310542	08/13/01	8/13/2001	CURRENT	SCRO	RENAI	FS	6213771	07/01/02-06/30/03	Colorado Boys Ranch		\$0	\$18,774	\$18,774

OUT OF STATE RESIDENTIAL CARE COST PROJECTION FY 03

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4	Prepared by: Lauri Ryals, Accounting Technician III											7	FY03 True Discharges	
5												75	Total Clients in OS Res/Grp Fac.	
6														
7														
8														
9	DIYS CLIENT	OUT OF STATE PLACEMENT	FACILITY ADMIT DATE	STATUS	REG	DOE School Dist	FS OR DJJ	Collocatio Code	FY03 SERVICE DATES	FACILITY NAME	FY03 EDUC ACTUAL PD COSTS	FY03 EDUC ESTIMATED COSTS	FY03 PROJ REMAINING ED COSTS	
10	PROBER #	DATE	DATE											
59	375196301	09/10/01	9/10/2001	CURRENT	SCRO	BETHEL	FS	6213771	07/01/02-06/30/03	Colorado Boys Ranch	\$0	\$21,739	\$21,739	
60	403120858	01/04/02	1/4/2002	CURRENT	SCRO	KENAI	FS	6213771	07/01/02-06/30/03	Colorado Boys Ranch	\$0	\$21,739	\$21,739	
61	403761133	04/02/02	4/2/2002	CURRENT	SCRO	DILLINGHAM	FS	6213771	07/01/02-06/30/03	Colorado Boys Ranch	\$0	\$21,739	\$21,739	
62	408300852	05/11/01	5/11/2001	DISCHRD	ARO	ANCH	FS	6213729	07/01/02-10/24/02	Colorado Boys Ranch	\$0	\$7,186	\$7,186	
63	406006173	07/23/99	12/11/2001	DISCHRD	ARO	ANCH	FS	6213729	07/01/02-07/20/02	Colorado Boys Ranch	\$0	\$1,168	\$1,168	
64	408450398	07/02/02	7/2/2002	CURRENT	SCRO	UNALASKA	FS	6213771	07/02/02-06/30/03	Colorado Boys Ranch	\$0	\$21,649	\$21,649	
65	403010179	08/02/01	8/2/2001	CURRENT	SCRO	ANCH	FS	6213771	07/01/02-06/30/03	Colorado Boys Ranch	\$0	\$21,739	\$21,739	
66	10								\$89.83 /day - Ed	TOTAL PROJ COLORADO	\$0	\$179,211	\$179,211	
67														
68	408005163	09/30/00	9/30/2000	CURRENT	ARO	ANCH	FS	6213729	07/01/02-08/04/02	Heritage	\$0	\$0	\$0	
69	406016279	11/25/99	11/25/1999	TRANSFER	ARO	ANCH	FS	6213729	07/01/02-10/23/02	Heritage	\$0	\$0	\$0	
70	368663101	07/18/02	7/18/2002	CURRENT	ARO	ANCH	FS	6213729	07/18/02-06/30/03	Heritage	\$0	\$0	\$0	
71	406035654	05/23/02	5/23/2002	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Heritage	\$0	\$0	\$0	
72	406014581	08/27/01	8/27/2001	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Heritage	\$0	\$0	\$0	
73	400800330	08/01/02	8/1/2002	CURRENT	ARO	ANCH	FS	6213729	08/01/02-06/30/03	Heritage	\$0	\$0	\$0	
74	375401702	01/11/02	1/11/2002	CURRENT	SERO	JNU	FS	6213775	07/01/02-06/30/03	Heritage	\$0	\$0	\$0	
75	7								\$0 .00 /day - Ed	TOTAL PROJ HERITAGE	\$0	\$0	\$0	
76														
77	400800248	11/07/02	11/7/2002	CURRENT	SERO	KETCH	FS	6213775	11/08/02-06/30/03	Yellowstone Boys & G	\$0	\$7,491	\$7,491	
78	406003085	05/24/02	5/24/2002	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Yellowstone Boys & G	\$1,873	\$11,965	\$10,092	
79	408004591	08/22/02	8/22/2002	CURRENT	ARO	ANCH	FS	6213729	08/22/02-06/30/03	Yellowstone Boys & G	\$0	\$11,028	\$11,028	
80	373069403	11/25/02	11/25/2002	CURRENT	NRO	KOTZEBUE	FS	6213773	11/25/02-06/30/03	Yellowstone Boys & G	\$0	\$7,127	\$7,127	
81	401401636	12/04/01	12/4/2001	CURRENT	SERO	JNU	FS	6213775	07/01/02-06/30/03	Yellowstone Boys & G	\$1,873	\$11,965	\$10,092	
82	406032871	03/24/02	3/24/2002	CURRENT	ARO	ANCH	DJJ	6663471	07/01/02-06/30/03	Yellowstone Boys & G	\$1,873	\$11,965	\$10,092	
83	400200150	10/16/98	6/27/2000	CURRENT	SERO	JNU	FS	6213775	07/01/02-06/30/03	Yellowstone Boys & G	\$1,873	\$11,965	\$10,092	
84	401406455	02/06/02	2/6/2002	CURRENT	NRO	FBKS	FS	6213773	07/01/02-06/30/03	Yellowstone Boys & G	\$1,873	\$11,965	\$10,092	
85	406006750	03/23/01	3/23/2001	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Yellowstone Boys & G	\$1,873	\$11,965	\$10,092	
86	403127791	05/22/02	5/22/2002	CURRENT	SCRO	KENAI	FS	6213771	07/01/02-06/30/03	Yellowstone Boys & G	\$1,873	\$11,965	\$10,092	
87	401800266	09/08/02	9/8/2002	CURRENT	NRO	BAR	FS	6213773	09/08/02-06/30/03	Yellowstone Boys & G	\$0	\$10,768	\$10,768	
88	11								\$52.02 /day - Ed	TOTAL PROJ YELLOWSTONE	\$13,109	\$120,166	\$107,057	
89														
90	377479102	05/31/02	5/31/2002	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Copper Hills Youth Ctr.	\$0	\$13,200	\$13,200	
91	402120485	11/10/01	11/10/2001	DISCHRD	SCRO	SEWARD	FS	6213771	07/01/02-12/9/02	Copper Hills Youth Ctr.	\$0	\$5,940	\$5,940	
92	501004608	07/26/02	7/26/2002	CURRENT	ARO	ANCH	DJJ	6663471	07/26/02-06/30/03	Copper Hills Youth Ctr.	\$0	\$12,210	\$12,210	
93	402120298	11/30/01	11/30/2001	CURRENT	NRO	FBKS	FS	6213773	07/01/02-06/30/03	Copper Hills Youth Ctr.	\$0	\$13,200	\$13,200	
94		10/10/02	10/10/2002	CURRENT	ARO	ANCH	FS	6213729	10/10/02-06/30/03	Copper Hills Youth Ctr.	\$0	\$9,295	\$9,295	
95	408301024	03/08/02	3/8/2002	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Copper Hills Youth Ctr.	\$0	\$13,200	\$13,200	
96	401800424	09/04/01	9/4/2001	CURRENT	ARO	ANCH	FS	6213729	07/01/02-06/30/03	Copper Hills Youth Ctr.	\$0	\$13,200	\$13,200	
97	6								\$55.00 /day - Ed	TOTAL PROJ COPPER HILLS	\$0	\$80,245	\$80,245	
98														
99	401423515	03/22/02	3/22/2002	CURRENT	NRO	FBKS	FS	6213773	07/01/02-06/30/03	CCS of Montana	\$2,130	\$15,125	\$12,995	
100	1								\$55.00/July \$62.50/day-Ed	TOTAL PROJ CCS	\$2,130	\$15,125	\$12,995	
101														
102	402160357	05/30/02	5/30/2002	CURRENT	NRO	NOME	FS	6213773	07/01/02-06/30/03	Benchmark Psych	\$9,896	\$22,259	\$12,363	
103		12/06/02	12/6/2002	CURRENT	ARO	ST MARYS	FS	6213729	12/06/02-06/30/03	Benchmark Psych	\$0	\$12,417	\$12,417	
104		09/20/02	9/20/2002	CURRENT	NRO	FBKS	FS	6213773	09/20/02-06/30/03	Benchmark Psych	\$0	\$17,016	\$17,016	
105		11/16/01	11/16/2001	CURRENT	SCRO	MALIBU	FS	6213771	07/01/02-06/30/03	Benchmark Psych	\$9,896	\$22,259	\$12,363	
106		05/29/02	5/29/2002	CURRENT	SCRO	ANAK	FS	6213771	07/01/02-06/30/03	Benchmark Psych	\$9,896	\$22,259	\$12,363	

Alaska State Hospital & Nursing Home Association

We're helping people care for people!

MAY 07 2003

May 7, 2003

Representative Peggy Wilson
Capitol Building, Room 104
Juneau AK 99801-1182

Dear Representative Wilson:

I am writing in support of CS for SB 157 (HES) relating to inpatient psychiatric services for persons who are under 21 years of age and are either eligible for medical assistance or are in the custody of the Department of Health and Social Services.

ASHNHA wholeheartedly supports this legislation. It has been shown that patients have a better chance at getting well if they are nearer their homes and families. Pat Clasby will be testifying for our Association at the hearing tomorrow.

The Alaska State Hospital and Nursing Home Association (ASHNHA) is an organization of all but one of the hospitals and nursing homes in Alaska. As such we represent the views of those medical facilities. They are solidly in favor of bringing our children home.

If you have questions, please contact me.

Sincerely yours,



Laraine L. Derr
President/CEO

SB

179

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
SENATE DISTRICT F

Senate Bill 179:

"An Act relating to criminal history records and background checks; allowing persons to teach in the public schools for up to five months without a teaching certificate if the person has applied for a certificate and the application has not been acted upon by the Department of Education and Early Development; allowing teacher certification for certain persons based on a criminal history background check without fingerprints; and providing for an effective date."

Sponsor:

Senator Gene Therriault *Gene T.*

Senate Bill 179 is a comprehensive package that accomplishes three important tasks related to performing background checks for licensing, certification and employment. It allows teachers to receive a name based background check in circumstances where their fingerprints are illegible or nonexistent. In addition, it gives the Department of Education the ability to grant a teaching certificate applicant a sixty-day extension on top of the three-month application period if their prints are backlogged and not processed in a timely manner. Finally, SB 179 conforms Alaska Statute to Federal Law, to maintain Alaska's access to federal background checks.

Senate Bill 179 will create an alternative for people who submit two separate sets of fingerprints that the state examiner determines to be illegible due to permanent skin condition. The measure also allows an alternative process if the applicant has a disability that prevents submittal all together. The applicant would then be allowed to have a background check performed based on their name, thus giving parents some assurance that a criminal background check is performed on all teachers relieving teachers who are unable to submit fingerprints from having to resubmit paperwork every three months.

The bill authorizes, but doesn't require, the Department of Education to grant an additional sixty-day extension on teacher applications if fingerprints are not returned within three months if the delay is due to processing rather than the tardiness of the applicant. The reason for this extension is that some teachers have been required to submit additional prints even though their prints were not denied but were still being processed. Some teachers who were not getting fingerprints processed within three months were being put on leave or were forced to be classified as a substitute teacher with lower pay and no benefits.

Finally, SB 179 fills current statutory gaps that the Department of Justice has determined have put the State of Alaska out of compliance with federal law regarding requesting and receiving federal background checks. If this legislation is not enacted, the State of Alaska risks losing its ability to get federal background checks performed after July 30, 2004.

23-LS1942VA
Luckhaupt
4/16/04

HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Introduced:
Referred:

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning Senate Bill No. 179, relating to criminal history records,**
3 **background checks, and teacher certification.**

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
6 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
7 changes to the title of a bill, are suspended in consideration of Senate Bill No. 179, relating to
8 criminal history records, background checks, and teacher certification.

23-LS0938\W
Luckhaupt
4/16/04

HOUSE CS FOR CS FOR SENATE BILL NO. 179()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR THIERRIAULT
REPRESENTATIVE Gatto

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal history records and background checks; allowing teacher
2 certification for certain persons based on a criminal history background check without
3 fingerprints; and providing for an effective date."

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

5 * Section 1. AS 04.11.295(a) is amended to read:

6 (a) An applicant for the issuance or transfer of a license or a conditional
7 contractor's permit under this title shall submit to the board, with the application, the
8 applicant's fingerprints and the fees required by the Department of Public Safety
9 under AS 12.62.160 for criminal justice information and a national criminal history
10 record check. The board may require an applicant for renewal of a license or a
11 conditional contractor's permit under this title to submit fingerprints and pay fees as
12 required by this subsection. The board shall submit the fingerprints to the Department
13 of Public Safety to obtain a report of criminal justice information under AS 12.62 and
14 a national criminal history record check under AS 12.62.400. The Department of

1 Public Safety may submit the fingerprints to the Federal Bureau of Investigation for a
2 national criminal history record check. The board shall use the information obtained
3 under this section in its determination of an applicant's qualification for issuance,
4 transfer, or renewal of a license or a conditional contractor's permit.

5 * Sec. 2. AS 04.11.295(b)(1) is amended to read:

6 (1) "applicant" means all individuals whose names and addresses are
7 required to be provided with an application for a new license or permit under
8 AS 04.11.260;

9 * Sec. 3. AS 08.08.137 is amended to read:

10 Sec. 08.08.137. Fingerprints. The Board of Governors shall require an
11 applicant for admission to be fingerprinted and provide the fees required by the
12 Department of Public Safety under AS 12.62.160 for criminal justice information
13 and a national criminal history record check. The fingerprints and fees shall be
14 forwarded to the Department of Public Safety to obtain a report of criminal
15 justice information under AS 12.62 and a national criminal history record check
16 under AS 12.62.400 [USED TO DETERMINE WHETHER THE APPLICANT HAS
17 A RECORD OF CRIMINAL CONVICTIONS IN THIS STATE OR ANOTHER
18 JURISDICTION]. The Board of Governors may use the information obtained from
19 the fingerprinting only in its official determination of the character and fitness of the
20 applicant for admission to the Alaska Bar Association.

21 * Sec. 4. AS 08.24.120 is amended to read:

22 Sec. 08.24.120. Application for operator's license. (a) An application for
23 an operator's license shall be made on forms furnished by the department and must
24 contain the information required in AS 08.24.110 and the following:

25 (1) a complete set of fingerprints and the fees required by the
26 Department of Public Safety under AS 12.62.160 for criminal justice information
27 and a national criminal history record check;

28 (2) a 2" x 3" photograph showing a front view of head and shoulders;

29 (3) if it is an original application, the application fee;

30 (4) the biennial license fee.

31 (b) The department may make a complete investigation of applicants,

1 including inquiry of police agencies as to the applicant's record of arrest or conviction
2 of crime. The department shall submit the fingerprints and fees received under
3 (a)(1) of this section to the Department of Public Safety for a report of criminal
4 justice information under AS 12.62 and a national criminal history record check
5 under AS 12.62.400.

6 * Sec. 5. AS 08.68.100(a) is amended by adding a new paragraph to read:

7 (10) require applicants under this chapter to submit fingerprints and the
8 fees required by the Department of Public Safety under AS 12.62.160 for criminal
9 justice information and a national criminal history record check; the department shall
10 submit the fingerprints and fees to the Department of Public Safety for a report of
11 criminal justice information under AS 12.62 and a national criminal history record
12 check under AS 12.62.400.

13 * Sec. 6. AS 12.62.160 is amended by adding a new subsection to read:

14 (e) When an interested person requests information under (b)(9) of this
15 section, the department may also obtain a national criminal history record check under
16 AS 12.62.400 if the person submits the fingerprints and fees required for that check
17 under (d) of this section.

18 * Sec. 7. AS 12.62 is amended by adding a new section to read:

19 **Article 1A. National Criminal History Record Check.**

20 **Sec. 12.62.400. National criminal history record checks for employment,**
21 **licensing, and other noncriminal justice purposes.** To obtain a national criminal
22 history record check for determining a person's qualifications for a license, permit,
23 registration, employment, or position, a person shall submit the person's fingerprints to
24 the department with the fee established by AS 12.62.160. The department may submit
25 the fingerprints to the Federal Bureau of Investigation to obtain a national criminal
26 history record check of the person for the purpose of evaluating a person's
27 qualifications for

28 (1) a license or conditional contractor's permit to manufacture, sell,
29 offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage
30 under AS 04.11;

31 (2) admission to the Alaska Bar Association under AS 08.08;

- 1 (3) licensure as a collection agency operator under AS 08.24;
- 2 (4) licensure to practice nursing or certification as a nurse aide under
- 3 AS 08.68;
- 4 (5) a position involving supervisory or disciplinary power over a minor
- 5 or dependent adult for which criminal justice information may be released under
- 6 AS 12.62.160(b)(9);
- 7 (6) a teacher certificate under AS 14.20;
- 8 (7) licensure as a security guard under AS 18.65.400 - 18.65.490;
- 9 (8) a concealed handgun permit under AS 18.65.700 - 18.65.790;
- 10 (9) licensure as an insurance producer, managing general agent,
- 11 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
- 12 broker, or independent adjuster under AS 21.27;
- 13 (10) serving and executing process issued by a court by a person
- 14 designated under AS 22.20.130;
- 15 (11) a school bus driver license under AS 28.15.046;
- 16 (12) licensure as an operator or an instructor for a commercial driver
- 17 training school under AS 28.17;
- 18 (13) registration as a broker-dealer, agent, investment adviser
- 19 representative, or state investment adviser under AS 45.55.030 - 45.55.060;

20 * Sec. 8. AS 14.20.020(c) is amended to read:

21 (c) The board may establish by regulation additional requirements for the

22 issuance of certificates. The board shall require teachers to submit fingerprints

23 and the fees required by the Department of Public Safety under AS 12.62.160 for

24 criminal justice information and a national criminal history record check. The

25 board shall submit the fingerprints and fees to the Department of Public Safety

26 for a report of criminal justice information under AS 12.62 and a national

27 criminal history record check under AS 12.62.400. The department shall establish

28 by regulation the fees to be charged for each certificate [, INCLUDING FEES FOR

29 CRIMINAL HISTORY BACKGROUND CHECKS] and for other charges assessed

30 against teachers as part of certification. In establishing the fees to be charged, the

31 department shall establish the fee levels so that the total amount of the fees collected

1 relating to the certification of teachers approximately equals, when added to the other
2 fees collected from teachers, the actual regulatory costs for certifying and disciplining
3 teachers in the state. The department shall annually review each fee level to determine
4 whether the regulatory costs are approximately equal to fee collections. If the review
5 indicates that fee collections and regulatory costs are not approximately equal, the
6 department shall calculate fee adjustments to the fees for certification of teachers and
7 adopt regulations under this subsection to implement the adjustments. In January of
8 each year, the department shall report on all fee levels and revisions for the previous
9 year under this subsection to the office of management and budget. The department
10 shall consider the board's recommendations concerning the fee levels and regulatory
11 costs before revising fee schedules to comply with this subsection. In this subsection,
12 "regulatory costs" means costs of the department that are attributable to regulation of
13 the teaching profession, including the portion of the expenses of the board that are
14 attributable to the regulation of the teaching profession and the expenses of the
15 Professional Teaching Practices Commission.

16 * **Sec. 9.** AS 14.20.020 is amended by adding a new subsection to read:

17 (j) Whenever required by a provision of this chapter to submit fingerprints to
18 use for a criminal background check for the purpose of determining a person's
19 suitability for employment as a teacher, the department shall accept a name-based
20 criminal history background check on a person from the agency performing the
21 background check if the

22 (1) person cannot submit legible fingerprint cards due to a permanent
23 disability that precludes the person's ability to submit fingerprints; or

24 (2) agency informs the department that its examination of at least two
25 separate sets of fingerprint cards shows that the person's fingerprints are illegible due
26 to a permanent skin condition.

27 * **Sec. 10.** AS 14.20.022(b) is amended to read:

28 (b) To be eligible for a subject-matter expert limited teacher certificate, a
29 person shall

30 (1) hold at least a baccalaureate degree from an institution of higher
31 education accredited by a recognized regional or national accrediting association or

1 approved by the commissioner and

2 (A) have majored or minored in the subject that the person will
3 be teaching; or

4 (B) have at least five years experience in the subject matter that
5 the person will be teaching;

6 (2) have submitted fingerprints and the fees required by the
7 Department of Public Safety under AS 12.62.160 for criminal justice information
8 and a national criminal history record check to the department; the department
9 must have submitted the fingerprints and fees to the Department of Public Safety
10 for a report of criminal justice information under AS 12.62 and a national
11 criminal history record check under AS 12.62.400 and the person must [TO BE
12 USED FOR A CRIMINAL HISTORY BACKGROUND CHECK AND] have been
13 found by the department to be suitable for employment as a teacher under
14 AS 14.20.020(f); and

15 (3) be currently enrolled in an approved post-baccalaureate teacher
16 education program at a regionally accredited institution meeting the requirements of
17 AS 14.20.020(b) that provides for completion of the regular teacher certificate
18 education requirements within two years after receipt of a subject-matter expert
19 limited teacher certificate under this section [; AND

20 (4) PAY THE FEE REQUIRED BY THE DEPARTMENT UNDER
21 AS 14.20.020(c) TO DEFRAY THE COST OF THE CRIMINAL HISTORY
22 BACKGROUND CHECK; THE AMOUNT MAY NOT EXCEED THE FEE
23 REQUIRED FOR APPLICATION FOR AN INITIAL REGULAR TEACHER
24 CERTIFICATE].

25 * Sec. 11. AS 18.20.302(b) is amended to read:

26 (b) Within 30 days after employing an individual in a paid position, a nursing
27 facility shall submit to the Department of Public Safety the fingerprints and fees
28 obtained under (a)(3) of this section. The Department of Public Safety shall submit
29 the fingerprints to the Federal Bureau of Investigation for a national criminal history
30 record check. When the results are received, the department shall advise the facility of

31 (1) the date on which the fingerprint background check was completed;

1 and

2 (2) whether the check shows that the individual has committed an
3 offense described in (c) of this section.

4 * Sec. 12. AS 18.65.410(a) is amended to read:

5 (a) Application for a license as a security guard must be made on forms
6 provided by the commissioner. The application must require the furnishing of
7 information reasonably required by the commissioner to carry out the provisions of
8 AS 18.65.400 - 18.65.490, including classifiable fingerprints and the fees required
9 under AS 12.62.160 for criminal justice information under AS 12.62 and a
10 national criminal history record check under AS 12.62.400 to determine if the
11 applicant has a [TO ENABLE THE SEARCH OF CRIMINAL INDICES FOR
12 EVIDENCE OF A PRIOR] criminal record. The application must be accompanied by
13 a nonrefundable application fee of \$50 for a security guard and \$200 for a security
14 guard agency.

15 * Sec. 13. AS 18.65.700(a) is amended to read:

16 (a) The department shall issue a permit to carry a concealed handgun to a
17 person who

18 (1) applies in person at an office of the Alaska State Troopers;

19 (2) qualifies under AS 18.65.705;

20 (3) submits a completed application on a form provided by the
21 department, that provides the information required under AS 18.65.705 and 18.65.710:
22 with each application form provided by the department, the department shall provide a
23 copy of the state laws and regulations relating to concealed handguns, which must
24 include a concise summary of where, when, and by whom a handgun can be carried
25 under state and federal law;

26 (4) submits two complete sets of fingerprints on Federal Bureau of
27 Investigation approved fingerprint cards that are of sufficient quality so that the
28 fingerprints may be processed; the fingerprints must be taken by a person, group, or
29 agency approved by the department; the department shall maintain a list of persons,
30 groups, or agencies approved to take fingerprints and shall provide the list to the
31 public upon request; the fingerprints shall be used to obtain a report of criminal

1 justice information under AS 12.62 and a national criminal history record check
2 under AS 12.62.400;

3 (5) submits evidence of successful completion of a handgun course as
4 provided in AS 18.65.715;

5 (6) provides one frontal view color photograph of the person taken
6 within the preceding 30 days that includes the head and shoulders of the person and is
7 of a size specified by the department;

8 (7) shows a valid Alaska driver's license or identification card at the
9 time of application;

10 (8) does not suffer a physical infirmity that prevents the safe handling
11 of a handgun; and

12 (9) pays the application fee required by AS 18.65.720.

13 * Sec. 14. AS 21.27.040(e) is amended to read:

14 (e) As part of the application required by (a) of this section, an applicant shall
15 furnish to the director a full set of fingerprints and the fees required by the
16 Department of Public Safety under AS 12.62.160 for criminal justice information
17 and a national criminal history record check so that the director may obtain
18 criminal justice information as provided under AS 12.62 about the applicant. The
19 director shall submit the completed fingerprint card and fees to the Department of
20 Public Safety for a report of criminal justice information under AS 12.62 and a
21 national criminal history record check under AS 12.62.400 [. THE
22 DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO SUBMIT THE
23 FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR A
24 NATIONAL CRIMINAL HISTORY RECORD CHECK].

25 * Sec. 15. AS 22.20.130(a) is amended to read:

26 (a) The commissioner shall be assisted in the execution of the authority and
27 duty vested by AS 22.20.100 - 22.20.140 by members of the division of state troopers
28 or Alaska state constabulary who the commissioner designates. The commissioner is
29 responsible on official bond for the acts of all persons designated under this
30 subsection. The persons designated under this subsection have the same authority and
31 duty granted to the commissioner and are subject to orders of the courts of the state in

1 the same manner as the commissioner. They are responsible to the commissioner and
2 to the courts, and shall be executive officers of the courts. In order to be designated
3 under this section, the commissioner may require the person to submit the
4 person's fingerprints and the fees required under AS 12.62.160 for criminal
5 justice information and a national criminal history record check. The
6 commissioner may obtain a report of criminal justice information under
7 AS 12.62 and a national criminal history record check under AS 12.62.400.

8 * Sec. 16. AS 28.15.046(b) is amended to read:

9 (b) The department may not issue a license under this section unless the
10 applicant

11 (1) is at least 21 years of age;

12 (2) has had a license to operate a motor vehicle at least three years
13 before the date of application;

14 (3) has successfully completed all required driving, written, and
15 physical examinations;

16 (4) has submitted the applicant's fingerprints, the fees required by
17 the Department of Public Safety under AS 12.62.160 for criminal justice
18 information and a national criminal history record check, and other information
19 sufficient to complete a background check consisting of a fingerprint check of national
20 criminal records and state criminal records of the state or states in which the applicant
21 has resided for the past two years; the department shall submit the fingerprints and
22 fees to the Department of Public Safety for a report of criminal justice
23 information under AS 12.62 and a national criminal history record check under
24 AS 12.62.400;

25 (5) has completed a state approved school bus driver training course
26 established under AS 14.07.020(a)(14) or has for the previous two years been licensed
27 by the state to operate a school bus.

28 * Sec. 17. AS 28.17.031 is amended by adding a new subsection to read:

29 (c) The department shall require an applicant for a license under this chapter
30 to submit the applicant's fingerprints and the fees required by the Department of
31 Public Safety under AS 12.62.160 for criminal justice information and a national

1 criminal history record check. The department shall submit the fingerprints and fees
2 to the Department of Public Safety for a report of criminal justice information under
3 AS 12.62 and a national criminal history record check under AS 12.62.400.

4 * Sec. 18. AS 45.55.040 is amended by adding a new section to read:

5 (k) The administrator shall require an applicant for registration under
6 AS 45.55.030 - 45.55.060 to submit the applicant's fingerprints and the fees required
7 by the Department of Public Safety under AS 12.62.160 for criminal justice
8 information and a national criminal history record check. The administrator shall
9 submit the fingerprints and fees to the Department of Public Safety for a report of
10 criminal justice information under AS 12.62 and a national criminal history record
11 check under AS 12.62.400.

12 * Sec. 19. This Act takes effect immediately under AS 01.10.070(c).

SB

192

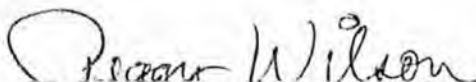


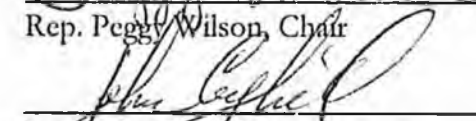
Health, Education, and Social Services Committee
Alaska State Legislature
House of Representatives
Representative Peggy Wilson - Chair

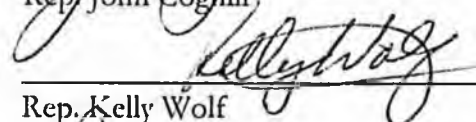
MEMORANDUM

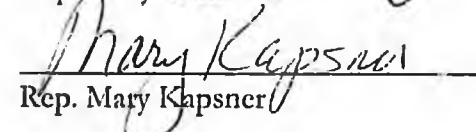
Date: May 15, 2003
To: Representative Pete Kott
Speaker of the House
From: Representative Peggy Wilson, Chair
House Health Education and Social Services Committee
Re: Waive CS SB 192 (L&C) 23-LS00944/H from Committee

The below signed members of the House Health, Education & Social Services Committee request waiving SB 192 "DOL Teachers & Training Programs" from committee and that the bill be moved to the next committee of referral.

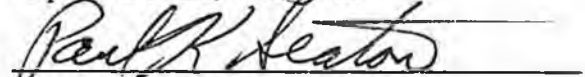

Rep. Peggy Wilson, Chair



Rep. John Coghill


Rep. Kelly Wolf


Rep. Mary Kapsner


Rep. Carl Gatto, Vice Chair


Rep. Paul Seaton


Rep. Sharon Cissna

SB192 - Amendment

Add a new section to 39.25.110 Exempt Service

(39) the Executive Director and staff of the Alaska
Workforce Investment Board established under AS 23.15.550.

Pg 4 - line 31

SESSION ADDRESS:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4925
Fax: (907) 465-3517
Toll Free: 1-800-821-4925

Senator Gary Stevens
Alaska State Legislature

INTERIM ADDRESS:
112 Mill Bay Road
Kodiak, Alaska 99615
(907) 486-4925
Fax: (907) 486-5264

Memorandum

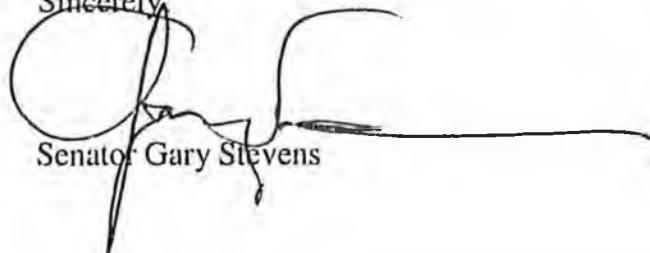
To: Representative Peggy Wilson
Chair, House HESS Committee
Fr: Senator Gary Stevens
Re: CSSB 192
Dt: May 12, 2003

I respectfully request a HESS Committee hearing be scheduled at your earliest convenience for CSSB 192 (L&C) "An Act relating to teachers and training programs in the Department of Labor and Workforce Development, to the placement in the exempt service of certified teachers employed by the Department of Labor and Workforce Development, to their eligibility to participate in the Teachers' Retirement System of Alaska, and to the functions of the Alaska Workforce Investment Board regarding the Kotzebue Technical Center and the Alaska Vocational Technical Center; relating to local workforce investment areas and boards; repealing the business incentive training program; and providing for an effective date".

This legislation is critical to ensure AVTEC teachers are protected in the TRS system when the school is transferred to the Department of Labor and Workforce Development this year.

Thank you for consideration of this request.

Sincerely,



Senator Gary Stevens

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Juneau, Alaska 99801-1182
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SPONSOR STATEMENT-CSSB 192 (L&C)
(Updated May 8, 2003)

This year, Governor Murkowski has proposed transferring the Alaska Vocational Technical Center (AVTEC) from the Department of Education and Early Development to the Alaska Department of Labor and Workforce Development. While the transfer of the school will be accomplished through the FY 2004 budget process, Senate Bill 192 will allow the transfer to occur with minimal disruption to the staff and operation of the school.

SB 192 would specifically grant statutory authority to the Department of Labor and Workforce Development to employ teachers who are members of the Teachers Retirement System (TRS) and would enable current AVTEC instructional staff to remain members of the TRS after AVTEC transfers to the Department of Labor and Workforce Development. It also would allow future AVTEC instructional staff to become TRS members. Without this bill, the current teachers at AVTEC would need to transfer to the Public Employees Retirement System (PERS). This would not only be unfair to employees who were originally hired under the TRS system, but it would hamstring AVTEC management in their teacher recruitment efforts. The management of AVTEC has found it advantageous to offer a TRS retirement benefit as an incentive to attract experienced teachers to accept employment at AVTEC. It would be a disincentive to experienced teachers who have accrued years of TRS membership at other educational institutions in the state to consider employment at AVTEC under PERS.

SB 192 also would make amendments to clarify that AVTEC and the Kotzebue Technical Center will continue to be under the oversight, planning, and coordination responsibilities of the Alaska Workforce Investment Board (AWIB) through the Department of Labor and Workforce Development.

At the request of the Department of Labor and Workforce Development, the Senate Labor and Commerce Committee passed a committee substitute that also amends AS 23.15.550(a) relating to the local workforce investment area and boards. This action will consolidate the workforce investment area and boards to one, allowing for the more efficient operation of the Alaska Workforce Investment Board and enable the State of Alaska to better meet the goals of the federal Workforce Investment Act.

The committee substitute also makes changes to AS 23.15.645(b) and repeals the business incentive program which has not been funded for many years

In summary, this bill would implement good public policy by facilitating the transfer of AVTEC from one agency to another, allowing employees to remain in TRS, by giving management a tool to attract quality employees, and by clarifying the authorities and responsibilities of AWIB.

I urge your prompt consideration and passage of this important bill.

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Senator Gary Stevens
Alaska State Legislature

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Sectional Analysis for CSSB 192

Section 1 AS 14.25.220 (42) Amends language so that teachers in the Alaska Department of Labor and Workforce Development will be Teachers Retirement System (TRS) eligible (Important that since AVTEC teachers are currently in TRS they stay in TRS even though they are moving to the Department of Labor)

Section 2 Conforming language for Workforce Investment Board so that there is one Workforce Investment Board.

Section 3 Adds Kotzebue Technical Center and AVTEC as programs within the Department of Labor and not the Department of Education any longer.

Section 4 Conforming language for one Workforce Investment Board.

Section 5 Amends language to so that existing teachers at AVTEC and skill centers that are exempt positions remain exempt positions.

Section 6 Repeals statutory language so that there is one Workforce Investment Board. Also repeals the Business Incentive Training Program, which has not been funded for many years.



Letter in
Support

Great careers for Alaska's future

April 24, 2003

Senator Fred Dyson
Alaska State Legislature
State Capitol
Juneau, Alaska 99811

Dear Senator Dyson,

I am writing to you today in support of SB 192. Senate Bill 192 is an important part of the overall effort needed to insure an effective transition of the Alaska Vocational Technical Center (AVTEC) from the Department of Education & Early Development to the Department of Labor and Workforce Development (DOLWD). This legislation will allow certificated instructional staff currently employed at AVTEC to remain in the Teacher Retirement System (TRS) after the transition to DOLWD. AVTEC employs some of the highest quality and technically competent instructors in Alaska. Many of these are mid-career professionals who have earned ten or more years of TRS member service. These instructors should be held harmless and allowed to remain in the TRS as AVTEC transitions to DOLWD. I appreciate your serious consideration of this bill and would be happy to answer any questions you might have on the impact it will have for AVTEC.

Sincerely,

Fred W. Esposito
Director

SB

201

ALASKA STATE SENATE



Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2327
(907) 465-5241 Fax

Interim:
119 N. Cushman, Suite 201
Fairbanks, Alaska 99701
(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

SENATE JUDICIARY COMMITTEE

Senator Ralph Seekins, Chairman
District D

Senate Bill 201 Sponsor Statement

“An Act relating to home care and respite care.”

Senate Bill 201 corrects errors identified by the Revisor of Statutes in Chapters 45 and 118, SLA 1994.

Specifically, Chapter 45 enacted various provisions containing a reference to a section that at the same time was repealed by Section 4 of Chapter 118. The section in question was former AS 12.62.035, relating to access to certain crime information. As a consequence of the enactment of these two bills, various sections contain a reference to something that no longer exists.

Senate Bill 201 corrects this error by replacing the repealed information with criminal history record information permitted by “Public Law 105-277 and Alaska Statute 12.62”.

LEGAL SERVICES

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

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

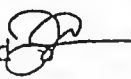
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

December 18, 2002

SUBJECT: 2003 Additional Revisor's Bill (Work Order No. 23-LS0118VA)

TO: Senator Robin Taylor
Chair, Legislative Council

FROM: James P. Crawford 
Assistant Revisor

The following is a sectional analysis of a draft of an additional revisor's bill submitted separately from the general 2003 Revisor's Bill drafted by Pamela Finley.

Like the general revisor's bill, this bill is prepared under AS 01.05.036. However, this bill deals with a discreet set of related errors arising from the contemporaneous enactment of ch. 45, SLA 1994 and ch. 118, SLA 1994.

Specifically, ch. 45 enacted various provisions containing a reference to a section that at the same time was repealed by sec. 4 of ch. 118. The section in question was former AS 12.62.035, relating to access to certain crime information. As a consequence of the enactment of these two bills, various sections contain a reference to something that no longer exists. The sections in question are AS 47.05.017(a), AS 47.65.050(b), and 47.65.100(e), (enacted by ch. 45 and addressed presently in sections 1, 3, and 4, respectively) and AS 47.14.100(h) (based on AS 47.10.230, also enacted in ch. 45, and addressed presently in section 2). The solution proposed in this bill simply reflects the fact that AS 12.62.035 has been repealed and makes no substantive change.

That said, there may be a greater than usual possibility that the legislature will want to reject this proposed solution and move this set of corrections to another bill in which the problem may be addressed substantively.

This possibility is suggested by the fact that starting with ch. 118, the legislature in recent years has tended to frame its crime information request statutes in more up-to-date terms of "criminal justice information," a phrase currently defined in AS 12.62.900. If this phrase were implemented in place of "former AS 12.62.035(a)" as a solution to the problem, a substantive change would occur because "criminal justice information" yields more information than that yielded under former AS 12.62.035.

For example, one sub-category of criminal justice information is "past conviction information." This one sub-category of information alone would provide information

Senator Robin Taylor

December 18, 2002

Page 2

concerning all misdemeanor offenses (as opposed to just some under former AS 12.62.035), as well as "the terms of any sentence, probation, suspended imposition of sentence, or discretionary or mandatory parole" and "information that a criminal conviction or sentence has been reversed, vacated, set aside, or been the subject of executive clemency" – information that former AS 12.62.035 did not cover.

Thus, resort to the "criminal justice information" example above as a solution to the problem, while perhaps a preferable alternative to the solution presented here, would represent a legislative policy choice more appropriately advanced through a substantive bill. However, because the possibility exists that the legislature may prefer this alternative, these related corrections have been gathered together and set out as a group in a separate revisor's bill as a means of providing a potentially convenient starting point for a substantive bill should the legislature elect to go that route.

TBC:lmb
02-167.lmb

Enclosure

Federal Statutes Authorizing Criminal Background Checks for Nursing Facility Job Applicants and Employees

There are approximately 15 federal laws that permit criminal background checks for civil (i.e., employment and licensing) purposes. Fingerprinting, either through electronic "live scans" or paper and ink "hard cards," is required for all federal criminal background checks conducted for employment and licensing purposes.

Three of these laws permit nursing facilities to seek criminal background checks on employees and job applicants. Two of the three laws, as amended, authorize nursing facilities to seek FBI criminal background information regardless of whether the state where the facility is located has enacted its own law to permit access to state criminal background records. The third law authorizes nursing facilities to seek federal criminal background checks if the state where the facility is located has enacted a law to authorize access to state criminal background information.

Current procedures under all three federal laws require nursing facilities to channel requests for FBI criminal background information through a designated state agency. (A list of State Agency Contacts is attached.) Summaries of each law's major provisions, advantages and limitations follow.

I. Public Law 105-277

Section 124 of Pub. L. 105-277, enacted in 1998, enables nursing facilities ("NFs") and home health care agencies ("HHAs") to request fingerprint-based national criminal history checks by the FBI for employees or job applicants for positions involving direct patient care. The NF or HHA seeking the background check must contact the designated state agency to obtain fingerprint cards and then must send the completed cards along with additional information from the applicant back to the state agency for processing. The state agency then will check its own criminal history record information (CHRI) and will forward the fingerprint cards to the FBI for a check of the FBI records. If any CHRI is found by the state, FBI, or both, the designated state agency will forward it to the NF or HHA for its use in making an employment determination for the applicant.

Pub. L. 105-277 does not require states to enact implementing legislation before NFs and HHAs can request federal criminal background checks of employees or job applicants. This is intended to give all NFs and HHAs nationwide the ability to seek access to the CHRI retained by the FBI. The statute does not specify that a law enforcement agency must take the individual's fingerprints, therefore it may be permissible for a private company to perform the actual fingerprinting.

II. National Child Protection Act of 1993

The National Child Protection Act of 1993, 42 U.S.C. § 5119a, was amended by the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322 § 320928, to allow for federal criminal background checks of individuals who work for, own, or operate a business that provides care to the elderly or individuals with disabilities, as well as those who are responsible for the safety and well-being of children. This statute was amended again in 1998 by the Volunteers for Children Act, Pub. L. 105-251 § 222, to allow for federal criminal background checks even when the state does not have an authorizing statute or regulations.

Under this law, "qualified entities" (as designated by the state) may request federal criminal background checks of a "provider" pursuant to specified guidelines. If a state has a statute or regulations that require qualified entities to request such federal background checks, the state procedures must be followed in addition to the federal guidelines. A "qualified entity" is defined as a business or organization, whether public, private, for-profit, not-for-profit, or voluntary that provides (or licenses or certifies others to provide) care or care placement services to children, the elderly, or individuals with disabilities. A "provider" is defined as any person who: is an employee, an applicant for employment, or a volunteer for a qualified entity; is an owner or operator of a qualified entity; or has or may have unsupervised access to a child to whom the qualified entity provides child care. Thus, under this statute, federal criminal background checks may be obtained for owners, operators, employees, volunteers, and job applicants of entities that provide health care services to children, the elderly or disabled. It should be noted that as long as the entity is "qualified," all of its employees and volunteers are amenable to backgrounding.

Therefore, the scope of employees and/or job applicants for whom criminal background checks can be sought is broader than under Pub. L. 105-277. Under both statutes, the health care employer submits the applicant's fingerprints and identification information to the designated state agency for processing. However, the NCPA, as amended, requires that the state agency make the determination of the applicant's fitness for the job, not the employer. Both statutes allow for federal criminal background checks in the absence of state implementing legislation.

III. Public Law 92-544

Passed by Congress in 1972, Pub. L. 92-544 is an appropriations statute that provides funding to the FBI for acquiring, collecting, classifying, preserving, and exchanging identification records with duly authorized officials of the federal government, the states,

cities, and other institutions. Under this federal law, health care employers have the ability to obtain federal criminal background checks of employees and job applicants, under certain conditions. First, there must be a state law authorizing health care employers to request such background checks from state and local government officials. Second, the authorizing state statute must be approved by the Attorney General of the United States.

Regulations implementing this law give the Director of the FBI the power and authority of the Attorney General to approve and conduct exchanges of identification records with officials of state and local governments for employment and licensing purposes if authorized by a state statute that has met the approval of the Attorney General. See 28 C.F.R. § 0.85(j). Pub. L. 92-544 and its implementing regulation do not provide guidelines for obtaining federal criminal background checks. Presumably, such guidelines or procedures would be established under the enabling (or other) state statute.

The FBI, consistent with several legal opinions from the U.S. Department of Justice, has established the mandatory elements of a state statute enacted under the auspices of Pub. L. 92-544. The state statute must:

- (1) Exist as a result of a legislative enactment;
- (2) Require that the criminal background check be fingerprint-based;
- (3) Authorize the submission of fingerprints to the State Identification Bureau for forwarding to the FBI for a national criminal history check;
- (4) Identify the categories of licensees amenable to backgrounding; and
- (5) Provide that an authorized government agency be the recipient of the results of the record check.

Pub. L. 92-544 does not allow federal criminal records to be shared directly with health care employers. Like the NCPA, as amended, Pub. L. 92-544 requires that the state agency make the determination of the applicant's fitness for the job, not the employer. A table listing those states which have enacted laws authorizing criminal background checks pursuant to Pub. L. 92-544 follows as Attachment C.

Attachment A

Public Law 105-277

The steps for conducting a background check include:

- (1) The NF or HHA contacts the state Control Terminal Officer ("CTO") and/or State Identification Bureau ("SIB") to request fingerprint cards (which bear a state-of-origin number for tracking purposes);
- (2) The NF or HHA gives the fingerprint cards to the applicant;
- (3) The applicant goes to the local police department or sheriff's office to get fingerprinted, which involves:
 - (a) Providing his/her name, address, and date of birth as they appear on a government document (e.g., a driver's license);
 - (b) Certifying that he/she has not been convicted of a crime and is not under indictment for a crime, or describing the crime and facts involved; and
 - (c) Having his/her fingerprints "rolled" onto the fingerprint cards;
- (4) The applicant returns the fingerprint cards and supporting information to the NF or HHA;
- (5) The NF or HHA sends the fingerprint cards, supporting information, and FBI fee (currently \$24) to the state agency (e.g., CTO, SIB) or other agency designated by the Attorney General no more than 7 business days after the fingerprints were taken;
- (6) The FBI conducts a check of its criminal history records (which include records of serious state offenses) and provides the results of the search to the submitting state agency;
- (7) The state agency receives the federal results from the FBI and forwards them with the state results to the NF or HHA; and
- (8) The NF or HHA makes the determination whether the applicant has a criminal record which would adversely affect the employment decision. In other words, the facility does not get a yes/no answer on whether to hire the individual. The statute provides immunity to the NF or HHA for making this determination based on incomplete or inaccurate information.

* Note: the local law enforcement agency and state agency may charge separate fees. Although the statute is silent as to additional fees, the FBI has concluded that such fingerprinting and processing fees are not limited by federal law.

Attachment B

National Child Protection Act of 1993

The steps for conducting a background check include:

- (1) The NF or HHA must seek and obtain from the appropriate state agency "qualified entity" status under 42 U.S.C. § 5119(a)(1).
- (2) The qualified entity obtains from the provider (i.e., employee or applicant):
 - (1) Fingerprints (presumably taken at a local law enforcement agency or by a private company);
 - (a) A signed statement to the qualified entity that:
 - (1) Contains the name, address, and date of birth of the provider as it appears on a valid I.D.;
 - (i) The provider has not been convicted and is not under pending indictment for a crime, or a description of the crime and conviction must be given;
 - (ii) Notifies the provider that the qualified entity may request a background check;
 - (iii) Notifies the provider of the provider's rights to: obtain a copy of any background check report, challenge the accuracy and completeness of any information contained in any report, and obtain a prompt decision on that challenge before a final determination is made by the state agency; and
 - (iv) Notifies the provider that before the background check is complete, the qualified entity may restrict the provider's access to a person to whom the qualified entity provides care;
- (3) The qualified entity submits the background check request, provider's fingerprints and supporting documentation to the state agency designated to report, receive, or disseminate background check information (an "authorized agency");
- (4) The authorized agency will review state records and also transmit the fingerprints to the FBI for a national check (which will be returned to the state). The state will make a reasonable effort to provide a consolidated response to the request within 15 days;
- (5) The authorized agency makes a determination whether the provider has been convicted of, or is under indictment for, a crime that bears upon the provider's fitness to be responsible for the safety and well-being of children, the elderly, or individuals with disabilities, and conveys that determination to the qualified entity. The qualified entity then notifies the provider of the determination.

Attachment C State Agency Contacts

State contacts to facilitate the processing of nursing facility / home health care applicant fingerprints to the FBI for national criminal history background checks are listed below. States that submit or exchange fingerprint information electronically with the FBI for civil purposes, which expedites processing time, are identified by "yes" or "no." States with background check statutes enacted pursuant to Public Law 92-544 for nursing facility and/or home health employees and applicants are identified by "yes," "no," or "may." (It was not clear to the FBI whether laws in the latter category applied specifically to nursing facility personnel.)

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Alabama	No	No	Alabama Bureau of Investigation Post Office Box 1511 Montgomery, AL 36102-1511 (334) 395-4340 Att: James Potts
Alaska	Yes	Yes	Department of Public Safety 5700 Tudor Road Anchorage, AK 99507 (907) 269-5708 Att: Kathy Monfreda
Arizona	No	Yes	Arizona Department of Public Safety Post Office Box 6638 Phoenix, AZ 85005-6638 (602) 223-2400
Arkansas	No	Yes	Arkansas State Police/ID Bureau #1 State Police Plaza Drive Little Rock, AR 72209 (501) 618-8500 Att: Sherrie Ewing
California	Yes	Yes	Department of Justice, BCII Post Office Box 903417 Sacramento, CA 94203-4170 (916) 227-3324 Att: Applicant Processing Program
Colorado	No	No	Colorado Bureau of Investigation Suite 300 690 Kipling Street Denver, CO 80215 (303) 239-4301 Att: AIC R. Armstrong

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Connecticut	Yes	No	Department of Public Health 410 Capitol Avenue Hartford, CT 06134 (860) 509-7218 Att: Bureau of Admin. and Support Services
Delaware	No	Yes	Delaware State Police Headquarters Department of Public Safety Post Office Box 430 Dover, DE 19903-0430 302-739-5960 Att: Major Michael J. McDonald
District of Columbia	No	No	Dist. of Columbia Metropolitan Police Dept. 300 Indiana Avenue, NW Washington, DC 20001 202-727-4110 or 5516 Att: Deloris Hunter
Florida	No	Yes	Criminal Justice Information Services Florida Department of Law Enforcement P.O. Box 1489 Tallahassee, FL 32302 850-410-7100 Attn: Donna M. Uzzell
Georgia	Yes	No	Georgia Bureau of Investigation P.O. Box 370748 Decatur, GA 30037-0748 404-244-2601 Attn: Paul C. Heppner
Hawaii	No	No	Hawaii Criminal Justice Data Center Room 101, Kekuanao'a Bldg. 465 South King Street (808) 587-3100 Att: Hannah Kawakami
Idaho	No	Yes	Idaho State Police Bureau of Criminal Identification Post Office Box 700 Meridian, ID 83680 (208) 884-7130 Att: Maria Wiley

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Illinois	Yes	No	Illinois State Police Division of Administration P.O. Box 19461 Springfield, IL 62794-9461 217-524-4432 Att: Ted L. Stoica
Indiana	No	No	Indiana State Police 100 N. Senate Ave. Rm. 302 Indianapolis, IN 46204 (317) 232-8263 Att: Major Karen Butt
Iowa	No	No	Division of Criminal Investigation Wallace State Office Bldg. Des Moines, IA 50319 (515) 281-4776 Att: Angell Magnani
Kansas	No	No	Kansas Bureau of Investigation 1620 SW Tyler Topeka, KS 66612-1837 Att: Adult Record Unit
Kentucky	No	No	Kentucky State Police 1250 Louisville Road Frankfort, KY 40601 (502) 227-8700 Att: Lieut. Tommy Burris
Louisiana	Yes	No	Louisiana Department of Public Safety Communications Division of State Police P.O. Box 66614 Baton Rouge, LA 70896 504-925-6325 Attn: Lieutenant Jerry Patrick
Maine	Yes	No	Maine State Police 36 Hospital Street Augusta, ME 04333 207-624-7062 Attn: Major Jeffrey Harmon

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Maryland	No	May	Department of Public Safety and Correctional Services 1201 Reisterstown Rd. Pikesville, MD 21208 (410) 764-5160 x 305 Att: Mike Tarlton
Massachusetts	Yes	No	Criminal History Systems Board Criminal Justice Information Systems 200 Arlington Street Chelsea, MA 02150 617-660-4713 Attn: John MacPherson
Michigan	Yes	No	Michigan State Police Criminal Justice Information Center 7150 Harris Dr. Lansing, MI 48913 (517) 322-1038 Att: AIT
Minnesota	Yes	Yes	Minnesota Department of Public Safety 1246 University Avenue Saint Paul, MN 55104-4197 (651) 603-0670
Mississippi	Yes	No	MS Department of Public Safety Post Office Box 958 Jackson, MS 39205 (601) 933-2600 Att: Applicant Processing Unit
Missouri	No	May	Missouri State Highway Patrol 1510 East Elm Street Jefferson City, MO 65102 573-526-6140 Att: Major William K. Seibert, Jr.
Montana	Yes	No	Justice Information Services 303 N. Roberts Street Helena, MT 59620 (406) 444-3625 Att: CSB - Records Section

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Nebraska	Yes	No	Nebraska State Patrol Post Office Box 94907 Lincoln, NE 68509 (402) 471-4545 Att: Ms. Marlene Dailey
Nevada	No	Yes	NV Highway Patrol Records and Identification Services 808 W. Nye Lane Carson City, NV 89703 (775) 687-1600
New Hampshire	No	No	New Hampshire State Police Support Services Bureau 10 Hazen Drive Concord, NH 03305 603-271-2151 Att: Major Frederick H. Booth
New Jersey	Yes	Yes	CJIS Control Unit New Jersey State Police P.O. Box 7068 West Trenton, NJ 08628-0068 609-882-2000 Ext. 2294 Att: Lieutenant Russell Dunfee
New Mexico	Yes	No	Department of Public Safety Technical and Emergency Support Division Communication Management Bureau P.O. Box 1628 Santa Fe, NM 87504-1628 505-827-9026 Att: Jeffery Wilkerson
New York	No	No	New York State Police Building #22 1220 Washington Avenue Albany, NY 12226 518-457-6811 Att: Steven Cumoletti

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
North Carolina	Yes	May	North Carolina State Bureau of Investigation Division of Criminal Information 407 North Blount Street Raleigh, NC 27601 919-733-3171 Att: Ronald P. Hawley
North Dakota	Yes	No	North Dakota State Radio Communications P.O. Box 5511 Bismark, ND 58502-5511 701-328-9628 Att: James D. Lueder
Ohio	No	Yes	Bureau of Criminal Identification Post Office Box 365 London, OH 43140 (740) 845-2200 Att: Bill Webb
Oklahoma	No	No	Oklahoma State Bureau of Investigation 6600 N. Harvey Oklahoma City, OK 73111 (405) 848-6724 Att: Ms. Debra Cooper
Oregon	Yes	Yes	Oregon State Police Identification Services 3772 Portland Road NE Salem, OR 97303 (503) 378-3070 ext. 223 Att: Lieut. Cliff Daimler
Pennsylvania	No	Yes	Pennsylvania State Police Bureau of Technology Services Operations Division 1800 Elmerton Avenue Harrisburg, PA 17110 717-787-1330 Att: Corporal John Albring

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Puerto Rico	No	No	Puerto Rico Criminal Justice Information Services G.P.O. Box 9020192 San Juan, PR 00902-0192 787-729-2121 Att: Alfonso Golderos
Rhode Island	No	No	Rhode Island State Police Technical Services Unit 311 Danielson Pike North Scituate, RI 02857 401-444-1033 Att: Brian J. Glancy
South Carolina	Yes	Yes	SC Department of Social Services Post Office Box 1520 Columbia, SC 29202 (803) 898-7635 Att: Helen Lebby, Director, Division of Child Day Care Licensing or Teresa Childers-Arnold, Legislative Liaison
South Dakota	Yes	No	South Dakota Division of Criminal Investigation 500 East Capitol Avenue Pierre, SD 57501 605-773-4636 Att: Delton K. Tipton
Tennessee	Yes	No	TN Bureau of Investigation 901 R.S. Gass Blvd. Nashville, TN 37216-2639 (615) 744-4004 Att: Mona Jamison
Texas	Yes	May	TX Department of Protective and Regulatory Services 701 West 51st Austin, TX 78751 (512) 438-4800 Att: Craig Phillips

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Utah	No	Yes	Utah Department of Public Safety Bureau of Criminal Identification 3888 West 5400 South Salt Lake City, UT 84118 (801) 965-3858 Att: Alice Emerson, Supervisor, Fingerprint Section
Vermont	No	No	VT Crime Information Center 103 S. Main Street Waterbury, VT 05671 (802) 244-8727 Att: Max Schlueter
Virginia	No	No	Virginia State Police Post Office Box 27472 Richmond, VA 23261-7472 (804) 674-2147 Att: Lieut. T.W. Turner
Washington	No	May	Washington State Patrol Post Office Box 42619 Olympia, WA 98504-2619 (360) 570-5250 Att: Identification Section
West Virginia	Yes	No	West Virginia Division of Public Safety Communications Section 725 Jefferson Road South Charleston, WV 25309 304-746-2154 Att: Sergeant Roy L. McCallister
Wisconsin	No	No	DOJ Crime Information Bureau 123 W. Washington Avenue Madison, WI 53701-2718 (608) 266-7399 Att: Dir. Michael Moschkau
Wyoming	No	May	WY Division of Criminal Investigation 316 W. 22nd Street Cheyenne, WY 82002 (307) 777-7523 Att: Criminal Records

Contact Steven G. Shandy, Program Analyst, U.S. Department of Justice, 202-514-9577 or Steve.Shandy@usdoj.gov for PL 92-544 state law citations or if you have questions.



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House HESS
Committee Name
Committee on SB 201 Dated 3-25-04
Bill / Subject

Re Criminal history checks

Is this committee aware that employees of
API who care for very vulnerable adults,
are not required to have criminal
background checks.

SIGNED:

Jeanette Grasto
Testifier

Alaska Mental Health Board + NAMI
Representing

1369 Ballaine Rd, FBKS, AK 99709 - 6402
Address / Phone Number
907-455-6263

SB

219



SENATOR FRED DYSON

SPONSOR STATEMENT

SB 219—*"An Act relating to offenses against unborn children."*

In recent years, several high-profile cases from across the nation have highlighted the need for laws protecting unborn victims of criminal violence. Perhaps, most notably, the tragic deaths of Laci and Conner Peterson have focused much-needed attention on this critically important issue. Currently, thirty states provide some degree of protection for unborn victims of violence.

At common law, the killing of an unborn child was not considered a homicide unless the child was first born alive and then died as a result of a criminal prenatal act. This rule, called the "born-alive" rule, is still followed in a majority of the States that have not enacted special legislation to protect unborn children. Thus, if someone shoots a pregnant woman, killing her child, he is not subject to criminal prosecution for murder of the child unless the child is born alive and then dies as a result of the injuries which the child sustained before birth. SB 219 corrects this situation by criminalizing conduct causing the death of an unborn child. Such conduct is punishable as homicide, regardless of whether the child is born alive or is stillborn. SB 219 also criminalizes conduct causing nonfatal injury to the unborn child, and is not directed at abortions which, under current constitutional doctrine, are protected. Thus far, it has been consistently established that unborn victims laws do *not* conflict with the U.S. Supreme Court's pro-abortion decrees (*Roe v. Wade*, etc.). Many legal challenges have been brought against state unborn victims laws, based on *Roe* and other constitutional arguments, but state and federal courts have rejected all such challenges.

Twenty-nine states have enacted laws that recognize unborn children as victims of violent crimes covered by *state* laws. Recently, the U.S. Congress passed the Unborn Victims of Violence Act, and President Bush subsequently signed the bill into law. This federal law recognizes that when a person attacks a pregnant woman, and injures or kills her unborn child, the attacker has harmed two victims. The bill establishes that if an unborn child is injured or killed during the commission of a federal crime of violence, then the assailant may be charged with a second offense on behalf of the second victim, the unborn child. The exact charge would depend on which federal law is involved, the degree of harm done to the child, and other factors.

Pregnant women who have been harmed by violence, and their families, know that there are two victims -- the mother and the unborn child -- and both victims should be protected by law. SB 219 recognizes this value of life and establishes, in law, defense for the unborn victims of violent crime.

SB 219 establishes the following crimes against an unborn child: murder, manslaughter, criminally negligent homicide, and assault. Explicit exceptions from these crimes are made for legal abortion and for customary medical treatment. This bill also defines "unborn child" within the criminal statutes.

Updated 4/1/04,

SB

239

Referral



SENATOR FRED DYSON

SB 239

Sponsor Statement

"An Act relating to the required number of days in a school year."

Updated: May 4, 2004

Contact: Senator Fred Dyson's office at (907) 465-2199

SB 239 allows a school district to use a school term different than the traditional 180 days in current law, if approved by the Commissioner of EED. The Commissioner may approve an alternative school term if he certifies that it provides an approximate educational equivalent and comparable wage rates as a 180-day school term.

SB 239 allows innovation and flexibility for local school districts in the context of school board oversight, recommendation, and Department of Education approval. Recently an Anchorage charter school proposed a plan to the Anchorage School Board for something less than 180 days. The plan was approved in concept and but is now on hold pending passage of this bill. This relaxation allows a stronger focus on academic performance in preference over an implied emphasis on mere " seat time" .

While allowing for a four-day week is not the specific intent of SB 239, passage would allow meaningful dialogue on whether a four-day week would be beneficial in some cases. For boarding/ residential schools, a flexible schedule may make a big difference by allowing students to return home more often. Potentially, some funds now directed at transportation and other school support services could be redirected to academic programs.

Anchorage School District Superintendent, Carol Comeau recommended to the Anchorage School Board to support this bill, and the Anchorage School Board subsequently passed supporting resolution # 2002/2003-8 supporting the concept.

Alaska K-12 education faces unique challenges in attempting to meet the needs of diverse students with very different needs scattered throughout widely varying geographical, cultural, and economic conditions. SB 239 broadens the field in which educators can design programs to meet these challenges.

SB

269

ALASKA STATE LEGISLATURE

Historical File



Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:

State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATOR LYDA GREEN SENATE DISTRICT G

Sponsor Statement of Senate Bill 269

"An Act relating to access to the library records of a child by a parent or guardian."

Existing law states parents can have access to their children's library records at public school libraries, but does not specifically state the parents right to have access to their child's records at public libraries. Senate Bill 269 clarifies that parents do have the right access to their child's records at public libraries as well as at public school libraries.

This legislation addresses practical issues by allowing parents to know what materials their child has checked out in both public libraries and public school libraries. As a result, parents can ensure the materials are returned, fines are paid or replacements are purchased.

Senate Bill 269 clarifies current law to ensure parents can find out what books their children are reading in public libraries as well as public school libraries, thus solving logistical and moral problems encountered by families when children's library records are deemed confidential. This legislation allows parents to perform their most important role in life, that of being a parent.

13 States allow parental access to their children's library records

5 States specifically say "school" library

- Alabama 18 and under
- Alaska
- Louisiana 17 and under
- Ohio 17 and under
- New Mexico 17 and under

8 States specifically say "public" library

- Colorado ("publicly-supported library") age 20 and under
- Florida ("every public library") age 15 and under
- Georgia ("a library") age 17 and under
- South Dakota age 17 and under
- Utah ("publicly-funded") age 17 and under
- West Virginia ("any public library") age 17 and under
- Wyoming ("library") age 17 and under
- Virginia (not in state statute, but per Attorney General opinion.)

14 States specifically provide for students' library records to be private

- Arkansas
- Maryland
- Montana
- Nebraska
- Illinois
- Michigan
- New Jersey
- New York
- North Carolina
- Oklahoma * (but see section 65-1-105(B) -- may allow for disclosure in middle and elementary schools)
- Pennsylvania
- Rhode Island
- South Carolina
- Tennessee

(13)

23 States have no laws specifically addressing children, but provide for public library records to be confidential

4 case law

past records ✓

PO Box 870, Dillingham, AK 99576

Fax

To: Jean Ellis	From: Christine O'Connor
Fax: 465-3175	Pages: 2
Phone: 800-686-3824	Date: 3/29/2004
Re: Parent Access to Child Library Records	CC:

Dear Ms. Ellis,

Thank you for taking the time to speak to me about SB269, Parent Access to Child Library Records, when I was in Juneau recently. I will be testifying by teleconference to the HES Committee March 30. As you suggested I have prepared a written copy of my testimony and am including it with this fax. If you think it is appropriate please share it with the rest of the committee.

If you have any questions, please don't hesitate to contact me. I can be reached at 842-2938h/842-6810w or by email at coconnor@nushtel.net. Thank you.

Sincerely,

Christine O'Connor
Christine O'Connor

**SB 269, Parent Access to Child's Library Records
Christine O'Connor public testimony
March 30, 2004**

My name is Christine O'Connor and I am the librarian at Dillingham Public Library. I've been involved as a volunteer at the library for 8 years and have been the Librarian for nearly 6 years.

Thank you for the opportunity to speak to the committee today regarding Parent Access to Child's Library Records. I believe this bill needs to be amended to protect some of the teens using my library.

Unfortunately not all teens come from caring homes. Instead their parents are indifferent or even harmful to these young adults. These are the teens I'm worried will be harmed by this bill as it is currently written. Teens that lose the privacy of their library use will also be losing the security of knowing they can come to the library for safe access to vital information, information that can be life-changing for them.

Occasionally a teenage girl brings me a stack of books and as I check them out to her I realize they are books about pregnancy. Most times I know the teen and also her parents. And each time I'm saddened to realize that this young girl is without support to deal with the situation she finds herself in. These girls come from sad homes where children are left to virtually raise themselves because of neglect or even abuse.

Dillingham is very small. Teens needing health information have to be willing to be exposed publicly by visiting the hospital or Public Health Center. While the records at these facilities are private, Dillingham is too small to allow a visit to go unnoticed. But the library allows teens to get this information privately. They can then make decisions with a little more information than they would probably otherwise have.

I ask that you please remember these at-risk teens as you consider the Parent Access to Child's Library Records bill. Please maintain the sanctuary of Public Libraries for these kids. Thank you.



STATE of ALASKA

Bethel Legislative Information Office

PO Box 886
Bethel, Alaska 99559
(907) 543-3541
Fax- 543-3542

Written Testimony
for the
Record:

TCN: 4437

Committee: H HESS

Date: 3/30/04

Bill Number(s): SB 269

Subject(s): _____

Please enter my testimony into the record.

Deborah Thompson
Testifier's name (s)

Representing (opt.)

PO Box 368 Kusko Library
Address

543-4571
Phone

Deborah Thompson
Librarian
Member of Alaska Library Association and American Library Association

March 30, 2004

House HESS Committee

Re: Senate Bill 269

While I support the intent of Senate Bill 269, Parent Access to Child Library Records, I feel that the language of the bill is too stringent. The current language of the bill supports actions that not only deny them the privacy given to all citizens in the state of Alaska but may also be harmful to children.

I support the actions of the Alaska Library Association and the language that they have attempted to modify.

Specifically, I agree with them on the following three points, and urge you to consider these points before making a decision on whether or not to pass Bill 269.

1. Child's age: The age of a child in the bill is anyone under 18. This age is high and should be lowered.
2. Library Records: Records such as books that are overdue, lost, stolen or even checked out, while still violating privacy rights, is understandable information to be desired by a parent. Personal information, however, such as name, address, phone number, email, or social security number is information that, given out, may be harmful to a child. A parent, who does not know this information or cannot ask his or her child, should be able to access this information through proper governmental channels, not the Library.
3. Verifying parental identity: How is a library to identify the parent of a child? Many parents and children have different names, and many members of a community share the same last name when they are not directly related. How can a system be provided that assures that information is being given to a parent, and not to a person with a malicious intent toward a child?

I urge you to take these points into consideration and to change the language of this bill.

Thank you,

Deborah Thompson
Librarian
Kuskokwim Consortium Library
PO Box 368, Bethel, AK 99569
(907) 543-4571

Post-It™ brand fax transmittal memo 7671 # of pages > 1

To: Bethel Legislative Office	From: Deborah Thompson
Co.	Co.
Dept.	Phone# 543-4571
Fax# 543-3542	Fax# 543-4503

DATE: 7/27/90
REVISED 9/03

PUBLIC SERVICE

(3.2) Patron Right to Privacy

The law of the State of Alaska regarding the confidentiality of certain library records (AS 09.25.140) reads as follows:

(a.) Except as prohibited in (b) of this section, the names, addresses, or other personal identifying information of people who have used materials made available to the public by a library shall be kept confidential, except upon court order, and are not subject to inspection under AS 90.25.110 or 90.25.120. This section applies to libraries operated by the state, a municipality, or a public school, including the University of Alaska.

(b.) Records of a public elementary or secondary school library identifying a minor child shall be made available on request to a parent or guardian of that child.

To conform to this law, the following will be adhered to by all library staff with **no exceptions**.

- Patron registration information and information concerning items checked out by any patron shall be considered confidential and will not be given out to anyone, including parents, guardians, spouses and uniformed law enforcement officers, without court order.
- Patrons requesting information about their own cards (most commonly wanting to know what is checked out against it) may be given the information if:
 - a) they present their library card, or
 - b) are able to produce a picture I.D. or
 - c) they can be positively identified by library staff.
- Parents cannot be given the titles of books their children have borrowed, except for the purposes of retrieving overdue materials for which the parent has accepted financial responsibility before the overdue. A child's address and phone number is not to be given out to anyone including a parent or guardian. A parent may be told whether or not their child is registered. If verification of correct name must be done using address, the patron must give address; staff shall not reveal it. This policy defines a child as anyone less than 18 years of age.
- No personal patron information including items checked out will be given over the phone unless staff is confident that confidentiality is upheld.

If at any time you are uncertain about whether to give out information from patron files and records, **do not give the information out. Refer the matter to your supervisor.**

THIS IS THE LAW. Failure to observe these provisions is just cause for disciplinary action up to and including dismissal. There is also the potential of being named as an individual defendant in a civil suit.

The supervisor will explain the provisions of this law to every employee who has access to the information covered by the law before security clearance is given. The employee will sign a statement agreeing to uphold the law and related library confidentiality policy.

(3.2) Patrons Right to Privacy

Page 2 of 2

PARENTS: Parents who object to not being given full access to their child's records have the following options:

1. The child can be instructed by the parent to ask for a printout listing books checked out.
2. The parent may choose to retain possession of the child's card in order to supervise its use.
3. The parent can do all checkout for the child on parent's card.

Staff should be supportive of children having cards, yet also be supportive of parent's need to supervise their reading.

HOLDS/ILL/RENEWALS: When a patron wants to renew a book or pick up a hold or Interlibrary Loan item for someone else they may do so if they have "Implied Consent." We consider implied consent to be when:

1. They know the title of items to be picked up or renewed
2. They have "other" patron's library card
3. They have a signed note giving the name of the person authorized to pick up
4. Authorization given by telephone at the time of pickup/checkout.

Implied consent is acceptable only for renewals, ILLs, and holds.

DATE: 4/22/93
REVISED 9/03

PUBLIC SERVICE

(3.3) Registration

GENERAL

Any permanent resident of the state of Alaska who presents an Alaska driver's license or other acceptable form of identification showing permanent mailing address is eligible to register as a borrower. A person under 18 years of age may have parent or guardian sign a parental responsibility card in lieu of other identification.

A visitor may be offered a TEMPORARY registration with limited borrowing privileges if the visitor has a valid local mailing address and presents adequate picture identification showing permanent out-of-state address. *(Refer to page 8 for a detailed explanation of temporary registration.)*

Local residents who are unable to present acceptable identification or proof of mailing address may receive temporary registration with limited borrowing privileges of two items only.

When any question exists about validity of address, staff will have registrant fill out a self-addressed postcard that the library will mail out. When brought back in, this postcard shall be considered valid proof of address.

A borrower's card issued by any of the Capital City Libraries may be used at any of the other member libraries - DGL, VAL, JUN, SLJ, UAS, ACS & JDHS.

SERVICE GUIDELINES

Registration is a dual responsibility of circulation and reference desk staff. Backup staff, when available, shall be called whenever multiple registrations slow service.

Subject: RE: Parental Access to Library Records

Date: Mon, 23 Feb 2004 15:10:43 -0500

From: FERPA <FERPA@ed.gov>

To: 'Jacqueline Tupou' <Jacqueline_Tupou@Legis.state.ak.us>

This represents an informal response to your question presented in the email below. Under the Family Educational Rights and Privacy Act (FERPA), parents have the right to have access to their children's education records. "Education records" are defined as those records that are directly related to a student and maintained by a school. Thus, a student's school library records would generally be considered "education records" under FERPA. As such, a state law that prohibited parental access to such records would be in conflict with FERPA and, as such, would put at risk the State's U.S. Department of Education funds.

Ellen Campbell

Family Policy Compliance Office

www.ed.gov/offices/OII/fpco

-----Original Message-----

From: Jacqueline Tupou [mailto:Jacqueline_Tupou@Legis.state.ak.us]

Sent: Monday, February 23, 2004 2:50 PM

To: ferpa@ed.gov

Subject: Parental Access to Library Records

I am requesting a response to the following question:

Would legislation prohibiting parental access to public school library records for children under 18 be out of compliance with FERPA?

Thank you in advance for your time and effort in this matter.

Jacqueline F. Tupou
staff for Senator Lyda Green
Alaska State Senate
877-465-6601
or direct dial 907 465-3712



U.S. Department of Education
 Promoting educational excellence for all students



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GENERAL

Family Educational Rights and Privacy Act (FERPA)

- General
- Legislation
- Regulations
- Policy Guidance
- Adult Education
- Civil Rights
- Elementary & Secondary Education
- Grants & Contracts
- Higher Education
- Research & Statistics
- Special Education & Rehabilitative Services
- Vocational Education

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law.

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Recursos en español

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.



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-HEAD-

Sec. 1232g. Family educational and privacy rights

-STATUTE-

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions

(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

Subject: [Fwd: Alaska Library Association and SB 269]

Date: Tue, 10 Feb 2004 07:43:06 -0900

From: Lyda Green <Senator_Lyda_Green@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Jacqueline Tupou <Jacqueline_Tupou@legis.state.ak.us>

Subject: Alaska Library Association and SB 269

Date: Mon, 09 Feb 2004 20:06:50 -0900

From: "Michael Catoggio" <catoggio@hotmail.com>

To: Senator_Lyda_Green@legis.state.ak.us

Senators Green, Ellis, and Representative Gara -

As President of the Alaska Library Association, I would like to respectfully share my thoughts regarding SB 269 (An Act relating to access to the library records of a child by a parent or guardian) with Senator Green as the sponsor of the bill, and with my two representatives.

Briefly, my concerns about SB 269 can be outlined as follows:

** The vast majority of public libraries in the state have automated check-out systems. These systems are designed to delete borrowers information upon the return of books. Public libraries don't keep exhaustive lists of books borrowed by library users over time. Thus, the only "records" a library will have will be of books currently checked out.

** Parents and their children can easily obtain information about books that are currently checked out by logging onto their library's web site. A parent simply needs to sit down with a child at their home computer, type in the child's library card, and to obtain a list of the books currently checked out by a child. Or, a parent can encourage their child to simply call their public library, and via the phone, the child can ascertain a list of books currently checked out.

** Parents have other quite effective means of checking on the borrowing habits of their children. As an alternative to Senator Green's Sponsor Statement, in which she says that "this legislation allows parents to perform their most important role in life, that of being a parent," I might suggest a more direct approach, which I don't believe will need legislative approval - that talking to one's child.

***In short, I feel that this is intrusive and not necessary. Since Ben Franklin established the first public lending library in the United States, we have not had to resort to enacting statutes which give a parent the right to circumvent an opportunity to communicate to their children. I don't see why we need this legislation now.

I believe that the majority of our membership feel the same.

I appreciate this opportunity to express my opinion.

Sincerely,

Michael Catoggio

President, Alaska Library Association

Get some great ideas here for your sweetheart on Valentine's Day - and beyond. <http://special.msn.com/network/celebrateromance.armx>

Subject: Library issue

Date: Wed, 11 Feb 2004 10:52:08 -0900

From: Mary Bixby <MBixby@ci.wasilla.ak.us>

To: "Jacqueline_Tupou@legis.state.ak.us" <Jacqueline_Tupou@legis.state.ak.us>

Mayor Keller got her son, Seth, a library card when he was six or seven years old. She called the Library after he had checked out some books because she knew they must be about due to be returned. She asked the Library for the titles of the books so she and he could locate them but was told that they could not give her that information. The books then became overdue, at which time the Library did give her the titles of the books so they could be returned. The Mayor has since taken away her son's card and all books are checked out on HER card. She would like him to have his own card, but parents have a right to know what books are being checked out so they can teach their children the responsibility of having their own card and getting books returned on time.

Mary Bixby, City of Wasilla

Executive Assistant to

Mayor Dianne M. Keller

ph. 373-9055 fax 373-9096

email: mbixby@ci.wasilla.ak.us

Subject: [Fwd: in support of SB 269]
Date: Tue, 10 Feb 2004 15:16:08 -0900
From: Lyda Green <Senator_Lyda_Green@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Jacqueline Tupou <Jacqueline_Tupou@legis.state.ak.us>

Subject: in support of SB 269
Date: Tue, 10 Feb 2004 14:24:06 -0900
From: "Geary, Gini" <pnvig@matsu.alaska.edu>
To: <Senator_Lyda_Green@legis.state.ak.us>

Dear Ms. Green,

As a constituent of yours, I felt compelled to offer my opinion on your proposed amendments to SB 269. There has been considerable discussion among the library communities of Alaska on this topic and I believe you may receive e-mails from library professionals who are against your wording and take issue with what they deem to be infringement of First Amendment rights and personal civil liberties.

As a library employee and a mother, I do not feel your further clarification of an existing piece of legislation is detrimental to our freedoms. Parents are responsible for and can be held accountable for the actions of their dependent children. They may need to access this information in order to better assess any issues that may need to be addressed with their children. I personally support this effort and thank you for the excellent job you are doing in representing our community.

Thank you,

Gini Geary, M.A.E.

Interim Library Director

Adjunct Professor

Mat-Su College, UAA

P.O. Box 5001

Palmer, AK 99645

(907) 745-9735

Fax: (907) 745-9777

e-mail: pnvig@matsu.alaska.edu

274

SB



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4300 Boniface Parkway
Anchorage, AK 99504
907-338-6100

Mailing Address:
PO Box 101020
Anchorage, AK 99510

Internet Web Site:
<http://www.ahfc.state.ak.us>

Senate Bill 274

Senate Bill 274 will replace the Housing Assistance Loan Fund with a new Housing Assistance Loan Program. This bill will also repeal the Rural Teacher Housing Loan Program and replace it with a Rural Multi-Family Loan Program.

The Housing Assistance Loan Program

When the rural and energy efficiency programs of the Department of Community and Regional Affairs were merged into Alaska Housing Finance Corporation in 1992, the Corporation purchased the rural Housing Assistance Loan Fund (the "HALF") from the State for approximately \$200 million. The HALF is currently a revolving fund within the Corporation from which loan payments can only be used to purchase new loans under our rural loan program. That revolving feature has begun to cause liquidity concerns at AHFC.

With the Dividend plan written into Statute during the last legislative session with House Bill 256, the Corporation is obligated to pay dividends to the State General Fund of \$103 million for the next two fiscal years, and percentages of its Change in Net Assets (net income) thereafter. Since the HALF has only unleveraged assets in it, the percentage of AHFC's net income that is unavailable from which to make Dividend payments has grown with the Fund.

At June 30, 2003, there was \$544 million in assets in the Fund, with net income generated of \$25 million—in excess of 35% of the Corporation's total net income. That net income is included in the determination of the Dividend to be paid, but unavailable to actually make a payment. The result is the Corporation's working capital—the amount of liquid assets available for day-to-day mortgage purchases and operations of the Corporation—is declining at an accelerated rate.

In addition, the "revolving" fund hasn't really revolved for several years. The new loans made under the HALF have exceeded the amount of cash available in the Fund causing the Corporation to use its working capital to purchase and hold loans for reimbursement from the Fund as money becomes available.

What this legislation will allow the Corporation to do is to leverage those assets by selling bonds and replenish the working capital borrowed by the HALF. Without the legislation, the working capital of the Corporation will continue to be eroded to such a point that it will affect the other successful programs throughout the State.

Other than this change the program will continue to operate in the same way



The Rural Multifamily Loan Program

Prior to 2002, a feature of the Rural Loan Program was a program called the Rural Non-Owner Occupied Loan Program (the "Program"). The Program accounted for approximately 2.5% of the Rural Loan Program activity. The Program provided loans for construction, purchase, or rehabilitation of rental units. The property could be rented to any tenant without regard to occupation, but the borrower could not occupy it.

Senate Bill 181 became law in 2002 and replaced the Program with the Rural Teacher Housing Loan Program (the "Teacher Program"). The Teacher Program provides loans for construction, purchase, or rehabilitation of housing that must be occupied by teachers and other education professionals. The properties may be owner occupied or non-owner occupied duplexes and above. Each unit must have at least one occupant who is employed as a teacher or other education professional in a public elementary or secondary school in a small community and holds a valid (unexpired) teacher certificate under AS 14.20 and 4 AAC 12.010-12.900.

If at any time before the loan is paid in full, the borrower fails to comply with the occupancy requirement of this section, the interest rate on the remaining balance of the loan amount will be increased to the AHFC Taxable Program rate in effect on the date the mortgage loan was submitted to the Corporation for commitment. Lenders are required to certify occupancy on an annual basis.

The Teacher Program became effective October 3, 2002 and since that time no loans have been made or committed to. It is surmised that the reason for this is three-fold: (i) the requirement that all units be occupied by a teacher or other education professionals; (ii) if tenants other than teachers or education professionals occupy a unit, the interest rate on the remaining balance of the loan amount will be increased as stated above; and (iii) the additional burden placed on a lender to certify occupancy on an annual basis.

Restricting the occupancy to only teachers or other educational professionals significantly increases the risk of the borrower; in that, it severely limits the universe of tenants to draw from. Additionally, it is very common that teachers and other educational professionals in rural areas leave the area for the summer and return in the fall when school starts. Therefore, unless the borrower can find other teachers or educational professionals to occupy the units, they will sit vacant until school begins. This in itself seriously affects the financial feasibility of the rental property but when combined with the restriction of renting to only teachers or other educational professionals, as well as the increased interest rate penalty in event the borrower has to rent to other than teachers or other education professionals to "make ends meet," creates a risk which apparently no borrower is willing to accept; therefore, resulting in an ineffective program.

This legislation will replace the Teacher Program with a Rural Multi-Family Loan Program which would be very similar to what the Rural Non-Owner Occupied program was but would allow the borrower to occupy the property. The Rural Non-Owner Occupied program has already proven to be effective. Additionally, to allow a borrower to occupy the property adds an attractive feature to the program. Finally, the occupation of the tenants would not be restricted and would include all occupations, including teachers and other educational professionals.



SB

277

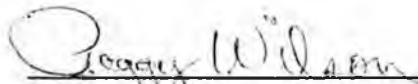


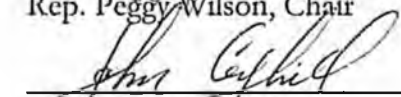
Health, Education, and Social Services Committee
Alaska State Legislature
House of Representatives
Representative Peggy Wilson - Chair

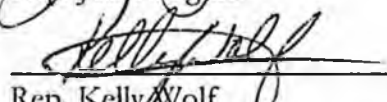
MEMORANDUM

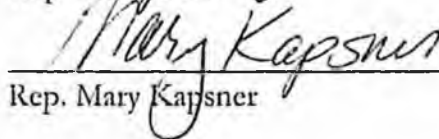
Date: March 30, 2004
To: Representative Pete Kott
Speaker of the House
From: Representative Peggy Wilson, Chair
House Health Education and Social Services Committee
Re: Waive CSSB 277(FIN) from Committee

SB 277 "Student Loan Programs" is a companion bill to HB 404 "Student Loan Programs" that moved from the House HESS Committee on February 26th with six "do pass" recommendations. The members of the House Health, Education & Social Services Committee request CSSB 277 (FIN) be waived from committee and that the bill be moved to the next committee of referral.

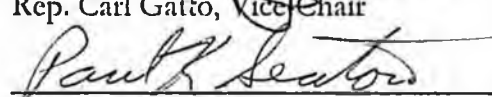

Rep. Peggy Wilson, Chair

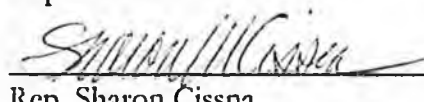

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Rep. Paul Seaton


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SB

285

ALASKA STATE LEGISLATURE



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Session:
State Capitol
Juneau, Alaska 99801-1182
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(907) 465-3805 Fax

SENATOR LYDA GREEN SENATE DISTRICT G

Sponsor Statement for SB285

“An Act Providing for Medicaid coverage for certain case management services; relating to payment under the Medicaid program for certain rehabilitative services furnished or paid for by a school district for eligible children; and providing for an effective date.”

Targeted Case Management

Targeted case management services are those which assist individuals in gaining access to needed medical, social, educational and other services. It allows the state to reach out beyond the bounds of the Medicaid program to coordinate a broad range of activities and services necessary to the optimal functioning of a Medicaid client. Medicaid allows states the option to cover targeted case management services. Current Alaska law restricts these targeted groups to substance abusers, chronically mentally ill adults, and severely emotionally disturbed children. The proposed change would let the Alaska Medicaid Program offer targeted case management to various groups of Medicaid recipients, potentially refinancing existing general fund expenditures.

The Department of Health and Social Services would begin by using targeted case management to fund family preservation services for children who are subject to, or at risk of, abuse and neglect. Further expansion of the service would be contingent on successful implementation of family preservation services.

School-Based Rehabilitative Services

In 2002, the Alaska Legislature amended the state Medicaid statute to allow school districts to enroll as Medicaid providers and offer rehabilitative and other services. The Department of Health and Social Services is unable to reimburse school districts for rehabilitative services due to the restrictive definition of rehabilitative services in 47.07.900, which limits providers to community mental health centers and drug and alcohol treatment centers.

By clarifying and making the definition of rehabilitative services as inclusive as the federal definition, this legislation will allow school districts to bill Medicaid for more of the services they provide to children with Individual Education Plans (IEPs).

ALASKA STATE LEGISLATURE

House of Representatives

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PHONE (907) 465-4968
FAX (907) 465-2040

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SPONSOR STATEMENT FOR HB 175

BY: Representative Norman Rokeberg

Title: An Act relating to issuance of a limited driver's license; relating to driving while under the influence of an alcoholic beverage, inhalant, or controlled substance and refusal to take a chemical test for consumption of an alcoholic beverage, inhalant, or controlled substance; and providing for an effective date.

Limited Drivers License

HB 175 gives greater flexibility to the courts to grant limited license privileges to those who have had their license revoked for driving under the influence or refusal to submit to a chemical test. Currently, a limited license can only be granted during the last 60 days of the revocation, and only on your first offense. HB 175 would allow the judge or department to grant a limited license during any portion of the revocation period. This will be an extremely useful tool for those who participate in therapeutic courts.

In order for one to be eligible for a limited license under HB 175, the following requirements must be met: (1) the revocation was for a misdemeanor conviction of driving under the influence or refusal to submit to a chemical test; (2) the court or department determines that the person's ability to earn a livelihood would be severely impaired without a limited license; (3) the court or department determines that a limitation can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public; and (4) the court or department determines that the person is enrolled in and is in compliance with, or has successfully completed, the alcoholism screening, evaluation, referral, and program requirements of the Department of Health and Social Service.

"Previously Convicted"

In 2001, the legislature changed the look back provisions for purposes of determining a "previous conviction" for misdemeanor and felony offenses of driving under the influence (DUI). The 10-year look back was removed in the definition of "previously convicted" for misdemeanors, effectively creating a "forever" look back.

This forever look back has created an equity issue within misdemeanor charges for DUIs. For example, someone who was imprudent in their youth and received a DUI, who then 30 years later received another DUI, would be charged as a 2nd DUI misdemeanor offender. This is not consistent with a pattern of conduct and places this offender in a category of more egregious offenders the law was previously intended to effect.

The idea of increased penalties for repeat offenses is to punish those who have a pattern of misconduct. In these cases, we sanction progressively higher levels of punishment upon each repeat offense. A forever look back is not consistent with these principles. Therefore, HB 175 implements a 15-year look back for purposes of determining a "previous conviction" under our misdemeanor DUI statutes.

I encourage your support of this legislation.

ALASKA STATE LEGISLATURE

House of Representatives

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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

Sectional Analysis for HB 175

By: Representative Norman Rokeberg

Section 1:

Removes the requirement that a limited license be granted only during final sixty days of the revocation period.

Allows for people convicted of Driving under the Influence or Refusal to submit to chemical testing to be eligible for a limited driver's license.

Removes the requirement that a person must not have been previously convicted to be eligible

Retains the requirement that the person must be in compliance with a state ASAP requirements and in compliance with any state required programs.

Section 2:

Changes the definition of "previously convicted" to meaning that a previous conviction must have happened within the previous fifteen years to be held against an offender.

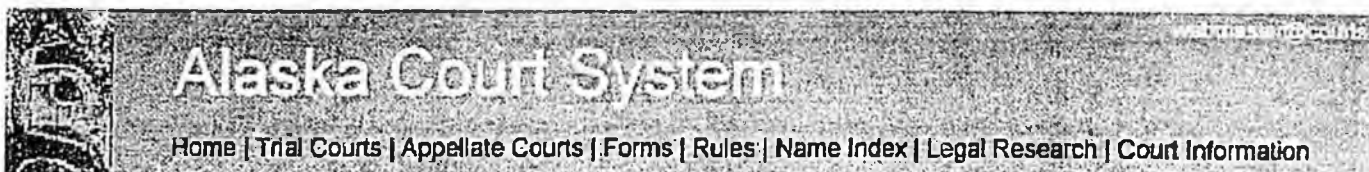
National Conference of State Legislatures
Drunk Driving Sanctions
Time Frames Used by States for Inclusion of Prior Offenses

State	Time period	State	Time period
Alabama.....	5 years	Montana.....	5 years
Alaska.....		Nebraska.....	8 years
Arizona.....	60 months	Nevada.....	7 years
Arkansas.....	5 years	New Hampshire.....	7 years
California.....	7 years	New Jersey.....	10 years
Colorado.....	5 years	New Mexico.....	10 years
Connecticut.....	5 years	New York.....	10 years
Delaware.....	5 years	North Carolina.....	7 years
Florida.....	3 years	North Dakota.....	5 years
Georgia.....	5 years	Ohio.....	5 years
Hawaii.....	5 years	Oklahoma.....	5 years
Idaho.....	5/10 years	Oregon.....	5 years
Illinois.....	5 years	Pennsylvania.....	7 years
Indiana.....	5/10 years	Rhode Island.....	5 years
Iowa.....	6 years	South Carolina.....	10 years
Kansas.....	5 years	South Dakota.....	5 years
Kentucky.....	5 years	Tennessee.....	10 years
Louisiana.....	3 years	Texas.....	10 years
Maine.....	5/6 years	Utah.....	6 years
Maryland.....	3 years	Vermont.....	5 years
Massachusetts.....	*	Virginia.....	10 years
Michigan.....	7 years	Washington.....	5 years
Minnesota.....	5/15 years	West Virginia.....	n/a
Mississippi.....	5 years	Wisconsin.....	5 years
Missouri.....	n/a	Wyoming.....	2 years

* unlimited

n/a: not available or not specified in statute

Sources: Digest of State Alcohol/Highway Safety Related Legislation, US Dept. of Transportation, National Highway Traffic Safety Administration, 2001; Westlaw bill tracking searches, 2003.



Anchorage Wellness Court

1. What is the Anchorage Wellness Court?

The Anchorage Wellness Court is a special court for municipal misdemeanor defendants who are addicted to alcohol and want to overcome their addiction.

2. What is the purpose of the Anchorage Wellness Court?

The court's aim is to assist alcoholic offenders who want to overcome their addiction and achieve lifetime sobriety. To accomplish this, the Wellness Court team oversees the treatment program of the offender.

The principle benefits of completing the Wellness Court program are achieving sobriety and avoiding future criminal cases. Graduates generally receive a reduced sentence and thus minimize jail time on their current case.

3. Who is eligible?

A defendant is eligible to participate in the Anchorage Wellness Court if he/she has been charged with an alcohol-motivated misdemeanor offense and is an alcoholic.

Admission to the Anchorage Wellness Court program is not automatic. Cases are reviewed on a case-by-case basis.

4. How does the Anchorage Wellness Court work?

The Wellness Court program is a voluntary program that requires commitment and persistence. Once a defendant has successfully "opted-in" to the Wellness Court program (see question 5 below), he/she will follow the basic structure of the Wellness Court Treatment Plan:

- o Alcohol treatment and counseling,
- o Take the prescription medication Naltrexone for 120 days. Naltrexone reduces or stops cravings for alcohol allowing the defendant to concentrate on treatment,
- o Frequent court appearances before the Wellness Court judge,
- o 12 step meetings (e.g. Alcoholics Anonymous),
- o Nalgroup® meetings (a support group for people taking Naltrexone),
- o Moral Reconciliation Therapy® (a cognitive behavioral training addressing moral reasoning, decision making and faulty, irrational beliefs in addicts),
- o Compliance logs for all treatment plan requirements,
- o Monitoring for continued sobriety (e.g. urinalysis, Sobriety, APD home visits, etc.),
- o Obtain employment and/or attend school,