

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 00/2

10896 HOUSE JUDICIARY

1 (5) the liability of providers of sports or recreational activities should be
2 limited to negligence that is not associated with the inherent risks of sports or recreational
3 activities.

4 (b) It is the intent of this Act to

5 (1) limit or eliminate the liability of a provider of a sports or recreational
6 activity to a participant in the activity when an injury or damage caused by or to the
7 participant is the result of risks inherent in the activity; and

8 (2) encourage the broad construction of the Act to shield providers of sports or
9 recreational activities from liability for injuries and damages caused by the inherent risks of
10 sports or recreational activities.

11 * Sec. 2. AS 05.25.040 is amended to read:

12 **Sec. 05.25.040. Owner's civil liability.** Except as provided under
13 AS 09.65.290, the [THE] owner of a boat is liable for injury or damage caused by the
14 negligent operation of the owner's boat whether the negligence consists of a violation
15 of a state statute or the failure to exercise ordinary care in the operation of the boat as
16 the rules of the common law require. The owner is not liable, however, unless the
17 boat is used with the owner's express or implied consent. It is presumed that the boat
18 is being operated with the knowledge and consent of the owner if, at the time of the
19 injury or damage, it is under the control of the owner's spouse, father, mother, brother,
20 sister, son, daughter, or other member of the owner's immediate family. This chapter
21 does not relieve any other person from a liability that the person would otherwise
22 incur and does not authorize or permit recovery in excess of injury or damage actually
23 incurred.

24 * Sec. 3. AS 09.65 is amended by adding a new section to read:

25 **Sec. 09.65.290. Civil liability for sports or recreational activities.** (a) A
26 person who participates in a sports or recreational activity assumes the inherent risks
27 in that sports or recreational activity and is legally responsible for all injuries or death
28 to the person or other persons and for all damage to property that results from the
29 inherent risks in that sports or recreational activity.

30 (b) This section does not require a provider to eliminate, alter, or control the
31 inherent risks within the particular sports or recreational activity that is provided.

1 (c) This section does not apply to a civil action based on the

2 (1) negligence of a provider if the injury, death, or damage was not the
3 result of an inherent risk of the sports or recreational activity that was provided; or

4 (2) design or manufacture of sports or recreational equipment or
5 products or safety equipment used incidental to or required by a sports or recreational
6 activity.

7 (d) Nothing in this section shall be construed to conflict with or render as
8 ineffectual a liability release agreement between a person who participates in a sports
9 or recreational activity and a provider.

10 (e) In this section,

11 (1) "inherent risks" means those dangers or conditions that are
12 characteristic of, intrinsic to, or an integral part of a sport or recreational activity;

13 (2) "provider" means a person or a federal, state, or municipal agency
14 that promotes, offers, or conducts a sports or recreational activity, whether for pay or
15 otherwise;

16 (3) "sports or recreational activity"

17 (A) means a commonly understood sporting activity, whether
18 undertaken with or without permission, including baseball, softball, football,
19 soccer, basketball, hockey, bungee jumping, parasailing, bicycling, hiking,
20 swimming, skateboarding, horseback riding and other equine activity, dude
21 ranching, mountain climbing, river floating, whitewater rafting, canoeing,
22 kayaking, hunting, fishing, backcountry trips, mushing, backcountry or
23 helicopter-assisted skiing, alpine skiing, nordic skiing, snowboarding,
24 telemarking, snow sliding, snowmobiling, off-road and all-terrain vehicle use;

25 (B) does not include

26 (i) boxing contests, sparring or wrestling matches or
27 exhibitions that are subject to the requirements of AS 05.10;

28 (ii) activities involving the use of devices that are
29 subject to the requirements of AS 05.20; or

30 (iii) skiing or sliding activities at a ski area that are
31 subject to the requirements of AS 05.45.

1 * Sec. 4. Section 9, ch. 28, SLA 2000 is amended to read:

2 Sec. 9. AS 05.25.040 is repealed and reenacted to read:

3 Sec. 05.25.040. **Owner's civil liability.** Except as provided under
4 AS 09.65.290, the [THE] owner of a watercraft is liable for injury or damage caused
5 by the negligent operation of the owner's watercraft whether the negligence consists of
6 a violation of a state statute or neglecting to observe ordinary care in the operation of
7 the watercraft as the rules of the common law require. The owner is not liable,
8 however, unless the watercraft is used with the owner's express or implied consent. It
9 is presumed that the watercraft is being operated with the knowledge and consent of
10 the owner if, at the time of the injury or damage, it is under the control of the owner's
11 spouse, father, mother, brother, sister, son, daughter, or other member of the owner's
12 immediate family. This chapter does not relieve any other person from a liability that
13 the person would otherwise incur and does not authorize or permit recovery in excess
14 of injury or damage actually incurred.

15 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 APPLICABILITY. This Act applies to acts or omissions that occur on or after the
18 effective date of sec. 3 of this Act.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 175
(S) Publish Date: 4/30/03

Revision Date/Time: _____ Dept. Affected: Law
Title: "An Act relating to civil liability for commercial
recreational activities and for guest passengers..." BRU: Civil Division
Sponsor: Senator Seekins Component: Special Litigation
Requester: Senate Labor and Commerce Component No.: 2213

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 175 establishes the responsibilities of persons who operate commercial recreational activities and persons who participate in those recreational activities and to decrease uncertainty regarding the legal responsibility for injuries that result from participation in commercial recreational activities. Under this bill, owners or operators of an aircraft or watercraft would not be liable for civil damages of a guest passenger if the owner or operator is not being compensated for the transportation, except under certain specified circumstances.

The Department of Law does not anticipate a fiscal impact as a result of this bill.

Prepared by: Kathryn Daughhete Phone (907) 465-3673
Division: Attorney General's Office Date/Time 4/29/03 12:09 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 4/29/2003
Agency: Department of Law

to fax 465-5241



ALASKA WILDLAND

ADVENTURES

Printed On Recycled Paper

April 28, 2003

Senator Seekins, Chair
Senate Judiciary Committee
Alaska Senate
Juneau, Alaska

Dear Senator Seekins,

This letter is in support of SB 175, Recreation Liability Legislation, as it appears in the committee substitute.

Alaska Wildland Adventures operates rafting and fishing trips on the Kenai River, and we also operate statewide, small-group nature tours that range from the Kenai Peninsula to Denali National Park to Fairbanks. We have twelve year around employees and over 60 seasonal employees. Risks are inherent in any outdoor activity, including our programs, and these risks cannot be eliminated without destroying the unique nature of the activities.

As I understand it, the clarification of legal responsibilities provided by SB 175 will be very helpful in avoiding legal claims that are without merit.

Respectfully,

Kirk Hoessle
President

Subject: SB175

Date: Mon, 28 Apr 2003 21:34:34 -0800

From: "Roark and Deborah" <roark@xyz.net>

To: <brian_hove@legis.state.ak.us>

CC: <lindaa@gci.net>

Senator Seekins and Brian Hove,

I would like to express my support for SB175 and the committee substitute as submitted by ATIA. This is a very important piece of legislation for Alaska businesses that needs to be passed this session. Thanks for your help with this bill, your hard work is much appreciated.

Roark Brown
Homer Ocean Charters/Otter Cove Resort
PO Box 2543
Homer, AK 99603
(800) 426-6212 ofc. (907) 399-1269 cell
e-mail: roark@xyz.net
Homer's leading provider of recreational activities
www.homerocean.com
www.ottercoveresort.com

SB

176

ALASKA STATE SENATE



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State Capitol
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Interim:
119 N. Cushman, Suite 201
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Senator Ralph Seekins
District D

SB 176 Sponsor Statement

Civil Liabilities for Livestock Activity (aka The 4-H Bill)

Senate Bill 176 is largely a reincarnation of House Bill 111 introduced in the 22nd Legislature. HB 111 was the product of several work sessions involving a group of 4-H members, stable owners and a veterinarian all located in the Tanana Valley. Like HB 111, SB 176 is intended to give livestock owners and those associated with livestock activities a certain measure of protection from frivolous lawsuits. Forty-four other states currently have similar legislation.

This Bill will recognize that a person assumes some degree of risk when placing themselves in the vicinity of livestock. The livestock owner, with the best of intentions, cannot completely prevent accidents from happening. For example, a bee could come along and sting a horse causing the horse to buck and throw a rider. Or, a bunny at a 4-H sponsored petting zoo could bite the finger of a small child attempting to feed it grain. Presently, both of these accidents could result in a lawsuit. Another example follows.

During the Miller Reach Fire in June of 1996, the Alaska State Fair in Palmer opened the fairgrounds to provide needed housing for evacuated animals. Pens were erected in the Farm Exhibition area and at the France Equestrian Center to hold a variety of animals. Both areas looked like Noah's ark had just unloaded. All the animals' owners made the best of the crowded situation and appreciated the Fair's hospitality.

That is with the notable exception of one individual who chose to ride her horse despite the crowded conditions. She happened to be bucked off the horse when it was spooked by a pig located in a nearby pen. Suffering from broken ribs and a punctured lung, she sued the fair because she had "warned" them about the problem of other animals spooking her horse. In November of 1997, the fairground's insurance company settled the case out of court for \$3,500 plus legal fees and medical expenses because to fight the suit would have cost them "four or five times as much."

SB 176 will not protect the livestock owner who acts in an unreasonable manner. But, by reducing some of the liability, the expectation is that this legislation will create an atmosphere which will encourage more livestock activity. It is important to note that this Bill is the work product of 4-H members statewide. These members will be following this proposal throughout the legislative process and participate in the passage of this Bill. A 4-H member in Fairbanks wrote the bulk of this sponsor statement.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 176
(S) Publish Date: 4/30/03

Revision Date/Time: _____ Dept. Affected: Law
Title: "An Act relating to civil liability for injuries
or death resulting from livestock activities..." BRU: Civil Division
Sponsor: Senator Seekins Component: Special Litigation
Requester: Senate Labor and Commerce Component No.: 2213

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
SB 176 limits the civil liability of livestock activity sponsors, participants, and livestock professionals involved in livestock activities from injuries or death due to a livestock activity. Exceptions include: damages resulting from gross negligence or reckless or intentional misconduct, known faulty or defective equipment, or failure to determine ability of the participant to safely manage the livestock activity.

The Department of Law does not anticipate a fiscal impact as a result of this bill.

Prepared by: Kathryn Daughetee Phone (907) 465-3673
Division: Attorney General's Office Date/Time 4/29/03 12:09 PM
Approved by: Kathryn Daughetee for C. J. D. Renkes, Attorney General Date 4/29/2003
Agency: Department of Law

SB

179

HOUSE COMMITTEE REPORT

3.24.04

(7)
Date Referred to Committee: March 16, 2004

FURTHER REFERRALS: HES
Judiciary

Date of Committee Action: 3/23/04

The HOUSE SPECIAL COMMITTEE ON EDUCATION considered:

CSSB 179(FIN)

CS FOR SENATE BILL NO. 179(FIN)

CRIMINAL BACKGROUND CHECKS/TEACHERS

"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 due to a delay in receiving criminal history records; allowing teacher certification for certain persons based on a criminal history background check without fingerprints; and providing for an effective date."

Recommends it be replaced with HCS or CS for _____ (_____)
For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
EED	3			✓
DPS	2			✓

<u>Signing with recommendations</u>	Printed Last Name	DB (4)	DNP	NR (1)	AM (1)
<i>Turner Wilson</i>	WILSON	✓			
<i>Robert O'Connell</i>	O'CONNELL	✓			
<i>Robert Kelly</i>	KELLY				✓
<i>Paul R. Seaton</i>	SEATON	✓			
<i>Mary Kapsner</i>	Kapsner			✓	
Chair:	<i>Robert Kelly</i>	✓			
Chair:	<i>Robert Kelly</i>	✓			

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. Jim Holm
Rep. Dan Ogg
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Jerry Luckhaupt, Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: May 7, 2004
Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS0938\V, SB179, incorporating the following amendment:

Amendment #1 by Rep. Gara: Delete Section 8.

As a result of this change a title change will be required and thus the committee moved to introduce an accompanying HCR, Work Order # 23-LS1942\A.

The bill was passed out of committee today. If you have any questions, please call me at 4990.
Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

23-LS1995A
Luckhaupt
5/5/04

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

BY THE HOUSE JUDICIARY COMMITTEE

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 checks**
3 **and fingerprints.**

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 checks and fingerprints.

23-LS0938X
Luckhaupt
5/5/04

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

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR THERRIAULT
REPRESENTATIVE Gatto

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal history records and background checks; relating to the
2 issuance and revocation of teaching certificates and limited teaching certificates for
3 persons convicted of certain criminal offenses; allowing persons to teach in the public
4 schools for up to five months without a teaching certificate if the person has applied for
5 a certificate and the application has not been acted upon by the Department of
6 Education and Early Development due to a delay in receiving criminal history records;
7 allowing teacher certification for certain persons based on a criminal history
8 background check without fingerprints; and providing for an effective date."

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

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

11 (a) An applicant for the issuance or transfer of a license or a conditional
12 contractor's permit under this title shall submit to the board, with the application, the

1 applicant's fingerprints and the fees required by the Department of Public Safety
2 under AS 12.62.160 for criminal justice information and a national criminal history
3 record check. The board may require an applicant for renewal of a license or a
4 conditional contractor's permit under this title to submit fingerprints and pay fees as
5 required by this subsection. The board shall submit the fingerprints to the Department
6 of Public Safety to obtain a report of criminal justice information under AS 12.62 and
7 a national criminal history record check under AS 12.62.400. The Department of
8 Public Safety may submit the fingerprints to the Federal Bureau of Investigation for a
9 national criminal history record check. The board shall use the information obtained
10 under this section in its determination of an applicant's qualification for issuance,
11 transfer, or renewal of a license or a conditional contractor's permit.

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

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

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

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

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

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

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

- 4 (2) a 2" x 3" photograph showing a front view of head and shoulders;
5 (3) if it is an original application, the application fee;
6 (4) the biennial license fee.

7 (b) The department may make a complete investigation of applicants,
8 including inquiry of police agencies as to the applicant's record of arrest or conviction
9 of crime. The department shall submit the fingerprints and fees received under
10 (a)(1) of this section to the Department of Public Safety for a report of criminal
11 justice information under AS 12.62 and a national criminal history record check
12 under AS 12.62.400.

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

14 (10) require applicants under this chapter to submit fingerprints and the
15 fees required by the Department of Public Safety under AS 12.62.160 for criminal
16 justice information and a national criminal history record check; the department shall
17 submit the fingerprints and fees to the Department of Public Safety for a report of
18 criminal justice information under AS 12.62 and a national criminal history record
19 check under AS 12.62.400.

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

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

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

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

27 **Sec. 12.62.400. National criminal history record checks for employment,**
28 **licensing, and other noncriminal justice purposes.** To obtain a national criminal
29 history record check for determining a person's qualifications for a license, permit,
30 registration, employment, or position, a person shall submit the person's fingerprints to
31 the department with the fee established by AS 12.62.160. The department may submit

1 the fingerprints to the Federal Bureau of Investigation to obtain a national criminal
2 history record check of the person for the purpose of evaluating a person's
3 qualifications for

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

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

8 (3) licensure as a collection agency operator under AS 08.24;

9 (4) licensure to practice nursing or certification as a nurse aide under
10 AS 08.68;

11 (5) a position involving supervisory or disciplinary power over a minor
12 or dependent adult for which criminal justice information may be released under
13 AS 12.62.160(b)(9);

14 (6) a teacher certificate under AS 14.20;

15 (7) licensure as a security guard under AS 18.65.400 - 18.65.490;

16 (8) a concealed handgun permit under AS 18.65.700 - 18.65.790;

17 (9) licensure as an insurance producer, managing general agent,
18 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
19 broker, or independent adjuster under AS 21.27;

20 (10) serving and executing process issued by a court by a person
21 designated under AS 22.20.130;

22 (11) a school bus driver license under AS 28.15.046;

23 (12) licensure as an operator or an instructor for a commercial driver
24 training school under AS 28.17;

25 (13) registration as a broker-dealer, agent, investment adviser
26 representative, or state investment adviser under AS 45.55.030 - 45.55.060;

27 * **Sec. 8.** AS 14.20.010 is amended to read:

28 **Sec. 14.20.010. Teacher certificate required.** A person may not be
29 employed as a teacher in the public schools of the state unless that person possesses a
30 valid teacher certificate except that a person who has made application to the
31 department for a teacher certificate, including a preliminary teacher certificate under

1 AS 14.20.015, or renewal of a teacher certificate that has not been acted upon by the
2 department may be employed as a teacher in the public schools of the state until the
3 department has taken action on the application, but in no case may employment
4 without a certificate last longer than three months. A person who has made
5 application for a certificate under this section may teach for an additional 60
6 days beyond three months without a certificate if the department grants a written
7 extension. An extension may be granted under this section for not more than 60
8 days to the person solely due to delay in the department's receipt of criminal
9 justice information under AS 12.62 or a national criminal history record check
10 under AS 12.62.400.

11 * Sec. 9. AS 14.20.020(c) is amended to read:

12 (c) The board may establish by regulation additional requirements for the
13 issuance of certificates. The board shall require teachers to submit fingerprints
14 and the fees required by the Department of Public Safety under AS 12.62.160 for
15 criminal justice information and a national criminal history record check. The
16 board shall submit the fingerprints and fees to the Department of Public Safety
17 for a report of criminal justice information under AS 12.62 and a national
18 criminal history record check under AS 12.62.400. The department shall establish
19 by regulation the fees to be charged for each certificate [, INCLUDING FEES FOR
20 CRIMINAL HISTORY BACKGROUND CHECKS] and for other charges assessed
21 against teachers as part of certification. In establishing the fees to be charged, the
22 department shall establish the fee levels so that the total amount of the fees collected
23 relating to the certification of teachers approximately equals, when added to the other
24 fees collected from teachers, the actual regulatory costs for certifying and disciplining
25 teachers in the state. The department shall annually review each fee level to determine
26 whether the regulatory costs are approximately equal to fee collections. If the review
27 indicates that fee collections and regulatory costs are not approximately equal, the
28 department shall calculate fee adjustments to the fees for certification of teachers and
29 adopt regulations under this subsection to implement the adjustments. In January of
30 each year, the department shall report on all fee levels and revisions for the previous
31 year under this subsection to the office of management and budget. The department

1 shall consider the board's recommendations concerning the fee levels and regulatory
2 costs before revising fee schedules to comply with this subsection. In this subsection,
3 "regulatory costs" means costs of the department that are attributable to regulation of
4 the teaching profession, including the portion of the expenses of the board that are
5 attributable to the regulation of the teaching profession and the expenses of the
6 Professional Teaching Practices Commission.

7 * Sec. 10. AS 14.20.020(f) is amended to read:

8 (f) The department may not issue a teacher certificate to a person who has
9 been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime,
10 involving a minor under AS 11.41.410 - 11.41.460, or misconduct involving a
11 controlled substance under AS 11.71.010, 11.71.020(a)(1), 11.71.030(a)(2),
12 11.71.030(a)(3), or a law or ordinance in another jurisdiction with elements similar to
13 an offense described in this subsection.

14 * Sec. 11. AS 14.20.020 is amended by adding a new subsection to read:

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

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

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

25 * Sec. 12. AS 14.20.022(b) is amended to read:

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

28 (1) hold at least a baccalaureate degree from an institution of higher
29 education accredited by a recognized regional or national accrediting association or
30 approved by the commissioner and

31 (A) have majored or minored in the subject that the person will

1 be teaching; or

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

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

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

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

23 * Sec. 13. AS 14.20.025 is amended to read:

24 **Sec. 14.20.025. Limited teacher certificates.** Notwithstanding
25 AS 14.20.020(b), a person may be issued a limited certificate, valid only in the area of
26 expertise for which it is issued, to teach Alaska Native language or culture, military
27 science, or a vocational or technical course for which the board determines by
28 regulation that baccalaureate degree training is not sufficiently available. A limited
29 certificate may be issued under this section only if the school board of the district or
30 regional educational attendance area in which the person will be teaching has
31 requested its issuance. A person who applies for a limited certificate shall

1 demonstrate, as required by regulations adopted by the board, instructional skills and
2 subject matter expertise sufficient to assure [ENSURE] the public that the person is
3 competent as a teacher. The board may require a person issued a limited certificate to
4 undertake academic training as may be required by the board by regulation and make
5 satisfactory progress in the academic training. To be eligible for a limited teacher
6 certificate, a person shall have submitted fingerprints to the department to be
7 used for a criminal history background check and have been found by the
8 department to be suitable for employment as a teacher under AS 14.20.020(f).

9 * Sec. 14. AS 14.20.030 is amended by adding a new subsection to read:

10 (c) The commissioner or the Professional Teaching Practices Commission
11 shall revoke the certificate of a person who has been convicted of a crime, or an
12 attempt, solicitation, or conspiracy to commit a crime, involving misconduct involving
13 a controlled substance under AS 11.71.010, 11.71.020(a)(1), 11.71.030(a)(2),
14 11.71.030(a)(3), or a law or ordinance in another jurisdiction with elements similar to
15 an offense described in this subsection.

16 * Sec. 15. AS 18.20.302(b) is amended to read:

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

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

23 and

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

26 * Sec. 16. AS 18.65.410(a) is amended to read:

27 (a) Application for a license as a security guard must be made on forms
28 provided by the commissioner. The application must require the furnishing of
29 information reasonably required by the commissioner to carry out the provisions of
30 AS 18.65.400 - 18.65.490, including classifiable fingerprints and the fees required
31 under AS 12.62.160 for criminal justice information under AS 12.62 and a

1 national criminal history record check under AS 12.62.400 to determine if the
2 applicant has a [TO ENABLE THE SEARCH OF CRIMINAL INDICES FOR
3 EVIDENCE OF A PRIOR] criminal record. The application must be accompanied by
4 a nonrefundable application fee of \$50 for a security guard and \$200 for a security
5 guard agency.

6 * Sec. 17. AS 18.65.700(a) is amended to read:

7 (a) The department shall issue a permit to carry a concealed handgun to a
8 person who

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

10 (2) qualifies under AS 18.65.705;

11 (3) submits a completed application on a form provided by the
12 department, that provides the information required under AS 18.65.705 and 18.65.710;
13 with each application form provided by the department, the department shall provide a
14 copy of the state laws and regulations relating to concealed handguns, which must
15 include a concise summary of where, when, and by whom a handgun can be carried
16 under state and federal law;

17 (4) submits two complete sets of fingerprints on Federal Bureau of
18 Investigation approved fingerprint cards that are of sufficient quality so that the
19 fingerprints may be processed; the fingerprints must be taken by a person, group, or
20 agency approved by the department; the department shall maintain a list of persons,
21 groups, or agencies approved to take fingerprints and shall provide the list to the
22 public upon request; the fingerprints shall be used to obtain a report of criminal
23 justice information under AS 12.62 and a national criminal history record check
24 under AS 12.62.400;

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

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

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

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

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

4 * Sec. 18. AS 21.27.040(e) is amended to read:

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

16 * Sec. 19. AS 22.20.130(a) is amended to read:

17 (a) The commissioner shall be assisted in the execution of the authority and
18 duty vested by AS 22.20.100 - 22.20.140 by members of the division of state troopers
19 or Alaska state constabulary who the commissioner designates. The commissioner is
20 responsible on official bond for the acts of all persons designated under this
21 subsection. The persons designated under this subsection have the same authority and
22 duty granted to the commissioner and are subject to orders of the courts of the state in
23 the same manner as the commissioner. They are responsible to the commissioner and
24 to the courts, and shall be executive officers of the courts. In order to be designated
25 under this section, the commissioner may require the person to submit the
26 person's fingerprints and the fees required under AS 12.62.160 for criminal
27 justice information and a national criminal history record check. The
28 commissioner may obtain a report of criminal justice information under
29 AS 12.62 and a national criminal history record check under AS 12.62.400.

30 * Sec. 20. AS 28.15.046(b) is amended to read:

31 (b) The department may not issue a license under this section unless the

1 applicant

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

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

5 (3) has successfully completed all required driving, written, and
6 physical examinations;

7 (4) has submitted the applicant's fingerprints, the fees required by
8 the Department of Public Safety under AS 12.62.160 for criminal justice
9 information and a national criminal history record check, and other information
10 sufficient to complete a background check consisting of a fingerprint check of national
11 criminal records and state criminal records of the state or states in which the applicant
12 has resided for the past two years; the department shall submit the fingerprints and
13 fees to the Department of Public Safety for a report of criminal justice
14 information under AS 12.62 and a national criminal history record check under
15 AS 12.62.400;

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

19 * Sec. 21. AS 28.17.031 is amended by adding a new subsection to read:

20 (c) The department shall require an applicant for a license under this chapter
21 to submit the applicant's fingerprints and the fees required by the Department of
22 Public Safety under AS 12.62.160 for criminal justice information and a national
23 criminal history record check. The department shall submit the fingerprints and fees
24 to the Department of Public Safety for a report of criminal justice information under
25 AS 12.62 and a national criminal history record check under AS 12.62.400.

26 * Sec. 22. AS 45.55.040 is amended by adding a new section to read:

27 (k) The administrator shall require an applicant for registration under
28 AS 45.55.030 - 45.55.060 to submit the applicant's fingerprints and the fees required
29 by the Department of Public Safety under AS 12.62.160 for criminal justice
30 information and a national criminal history record check. The administrator shall
31 submit the fingerprints and fees to the Department of Public Safety for a report of

- 1 criminal justice information under AS 12.62 and a national criminal history record
- 2 check under AS 12.62.400.
- 3 * **Sec. 23.** This Act takes effect immediately under AS 01.10.070(c).

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.

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSB 179(FIN)

Page 5, line 1:

Following "months."

Delete all material

Page 5, lines 2 - 7

Delete all material and insert:

"However, a person who has applied for a certificate under this section may teach for an additional 60 days beyond three months without a certificate, if the department grants a written extension. The department may grant an extension for the additional 60 days if

(1) the department has not received ~~criminal justice~~ ~~information about the applicant under AS 12.62~~ or a national criminal history record check under AS 12.62.400, that are based on the applicant's fingerprints; and

(2) the school district that has employed the applicant has obtained a report of state criminal justice information about the applicant under AS 12.62.160 that is available without fingerprints."

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 THERRIAULT
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:⁵

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).



U.S. Department of Justice

Federal Bureau of Investigation

Clarksburg, WV 26306

April 11, 2003

Ms. Diane Schenker
Manager
Criminal Records and Identification Bureau
Department of Public Safety
5700 East Tudor Road
Anchorage, AK 99507-1225

Dear Ms. Schenker:

Reference is made to your facsimile dated March 25, 2003, requesting an extension of the grace period to amend Alaska statutes, that were found defective during the comprehensive review conducted by the Access Integrity Unit (AIU).

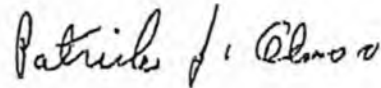
As requested we have changed the grace period from the original date of June 30, 2003, to June 30, 2004, to permit the amended statutes to be reviewed during the 2004 legislative cycle. However, should the defective statutes not be amended during your next legislative session, an additional grace period will not be granted and fingerprint submissions under the defective statutes will no longer be accepted.

Again, we appreciate your efforts to make the necessary changes to bring Alaska statutes into compliance with established Public Law 92-544 criteria. Please remember that the AIU stands ready to assist you by reviewing any proposed legislation.

Ms. Diane Schenker

Should you have further questions regarding this matter, please do not hesitate to contact Ms. Sandra Wayman of the AITF at (304) 625-2182.

Sincerely yours,



Patrick J. Adams
Chief
Programs Support Section
Criminal Justice Information
Services Division

Enclosure

1 - Ms. Kathryn M. Monfreda - Enclosure
Chief
Criminal Records and Identification Bureau
Department of Public Safety
5700 East Tudor Road
Anchorage, AK 99507-1225

Fact Sheet

**LIVESCAN STATION 3000™
PORTABLE**

**THE INKLESS
FINGERPRINT AND
BIOMETRIC CAPTURE
SOLUTION**



MOTOROLA
intelligence everywhere™

*An electronic
biometric
acquisition
system that
quickly and
easily
captures high
quality images*

The LiveScan Station 3000 Portable is an automated biometric acquisition station specifically designed for a mobile and intuitive operation. This compact, portable, and lightweight device can efficiently capture multiple biometrics including fingerprints, photographs, and signatures, as well as demographic data and documents. The data can be submitted electronically to an Automated Fingerprint Identification System (AFIS) with prompt disposition responses provided to the operator. The data can also be printed in multiple card formats.

The LiveScan Station 3000 Portable comes with an impressive array of quality control features and case management tools. The system automatically compares rolled and slap fingerprint impressions and ensures that they are present and in the correct sequence. Each fingerprint image receives a valuable forensic quality rating based on minutiae extraction and automatic classification. Immediate feedback and correction are provided to the operator to ensure that the best quality images are captured.

When integrated with Motorola's AFIS technology the LiveScan Station 3000 Portable becomes a powerful distributed matching subsystem, capable of performing quick one-to-one fingerprint verification.



The LiveScan Station 3000 Portable captures both rolled and slap images and ensures that they are in the correct sequence



Printrak, A Motorola Company

The optional camera unit can streamline photo imaging capabilities to provide a comprehensive digital identification system



PRODUCT FEATURES:

- Intuitive graphical user interface and workflow designed to accommodate touch screen operation
- FBI-Appendix F certified forensic quality fingerprint optical scanner
- Stationary scanner components and non-coated platen minimize maintenance costs
- FBI EFTS and ANSI/NIST compliance
- Compact and lightweight designed for portability
- Foot peddle screen advancement allows for easy capture

PRODUCT OPTIONS:

- Laptop computer with wireless capability (IEEE 802.11)
- 18" touch screen TFT monitor
- Photo capture with on-screen controls and a multi-directional camera.
- Signature pad
- Flatbed document scanner
- Duplex multi-tray printer
- Additional foreign system interface (not compliant to EFTS v.7 and ANSI/NIST standard)
- Additional printing forms
- Remote communication package
- Rolling, ruggedized carrying case promotes portability and fully protects critical components

PRODUCT SPECIFICATIONS:

Compliance:	FBI-Appendix F Certified Optics	- Dimensions:	W: 12" (35cm) D: 17" (42cm) H: 6" (15cm)
Computer:	Pentium IV	- Weight:	22 lbs. (9.9 kg) excluding all cables
Operating System:	Windows® 2000/ Windows® XP	- Power Requirements:	AC 100V – 240V, 50/60 Hz, autosensing
Scanner:		- Environment: Temp:	50 – 95 F (10 – 35C);
- Resolution:	500 pixels-per-inch (ppi)	- Humidity:	10-80% non-condensing
- Dynamic Range:	True 8 bit - 256 gray scale	Storage Capability:	500 (minimum)
- Scan Area			
- Rolled:	1.5" x 1.2" (3.8 cm x 3.0 cm) – W x H		
- Slap:	3.2" x 2.9" (8.3 cm x 7.5 cm) – W x H		



Phone: (888) 493-3590 / (714) 238-2000 Fax: (714) 237-0018
www.motorola.com/printrak www.motorola.com/publicsafety



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Product Description Price

√ LSS 3000 P Base Product LiveScan Portable, includes the following:

- LiveScan application software
- Tenprint scanner, FBI Appendix F Certified
- 17" TFT monitor, desktop computer, keyboard, mouse
- Foot peddle for hands free advancement
- EFTS v.7 compliant NIST submission via SMTP & TCP/IP
- Standard Applicant profiles using Motorola defined workflows
- Case manager and message manager
- Standard Motorola defined reports
- 1 year BRONZetrak warranty
- Freight Paid for Continental US \$13,481

Recommended Configuration Total \$13,481

Additional Options *Please check-off additional desired options

18" Touch Screen Upgrade 18" TFT Touch Screen

- 1 year BRONZetrak warranty

\$2,508

Laptop Upgrade Upgrade from desktop to laptop

- 1 year BRONZetrak warranty \$1,254
- Single Tray Card Printer Lexmark Single Tray Card Printer:
- FBI Certified
- FBI Applicant Card format
- 1 year BRONZetrak warranty \$2,053

On-site Training / Installation One full day training up to 5 students at a single customer location.

Note: Training CD-Rom is provided with every LiveScan free of charge. \$2,400

Ruggedized Caring Case w/ wheels Durable construction with foam blocks specifically designed

to protect our portable LiveScans. \$750

Photo Acquisition On-screen control and multi-directional photo capture capability, which includes:

- 1 year **BRONZE**trak warranty
- Optical zoom, On-screen controlled pan-tilt-zoom
- Mounting tripod for desktop version \$4,075

Remote Training One full day training up to 5 students at Motorola Anaheim, CA facility.

Note: Training CD-Rom is provided with every LiveScan free of charge. \$900 Motorola facility

Thank You,

Ajay Khatri
Service Sales
Printrak, A Motorola Company
Phone: 714-632-2109
Fax: 714-237-0050
<<3000P Datasheet.pdf>>

LEGISLATIVE RESEARCH REPORT

MAY 5, 2004



REPORT NUMBER 04.245

AUTOMATED CRIMINAL HISTORY CHECKS FOR TEACHERS

PREPARED FOR REPRESENTATIVE PETE KOTT

BY CHERIE NIENHUIS AND KATHLEEN WAKEFIELD, LEGISLATIVE ANALYSTS

You asked about states that use "live scan" technology to obtain fingerprints for criminal background checks for teachers. You specifically wished to know about Alabama, California, and Pennsylvania.

SUMMARY

According to the National Association of State Directors of Teacher Certification (NASDTEC), 28 states require fingerprints as part of criminal background checks for teacher certification.¹ In most states, the certifying agency does not "roll" the fingerprints—the candidate for certification must go to the local sheriff's office or police department, or to an office of the state police, to obtain the prints.

In some states, a teacher must submit completed fingerprint cards to the certifying agency (such as the state department of education) with his or her application for certification, and the agency submits the fingerprints to the state law enforcement agency. In other states, the certifying agency does not collect and submit the fingerprints, but only receives the completed background report produced by the law enforcement agency.

Although most states still use the paper card and ink method of obtaining fingerprints, some are moving toward the "live scan" method. This method allows the operator to use digital scanning equipment to scan a person's fingerprints, and those prints are then sent electronically to the

¹ "Table J-2, Fingerprinting and Reporting Requirements," *The NASDTEC Manual of Preparation and Certification of Educational Personnel*, National Association of State Directors of Teacher Certification, 2003. Some states also require fingerprint checks for teacher employment.

state police and/or the FBI. Electronic transmission and checking of prints allows a much quicker turn-around time for reporting back to the requesting agency—usually about 72 hours, as opposed to as much as six weeks or more for traditional fingerprint cards. Some live scan equipment can also be used to scan paper fingerprint cards, allowing for electronic transmission of those prints as well.

AUTOMATED BACKGROUND CHECKS IN SELECTED STATES

We checked with several states that require fingerprint checks for teacher certification, and most of them are not using live scan technology. However, it is important to note that in most states the certifying agency does not actually "roll" the fingerprints, but only submits already completed cards to the state police. While individual departments of education or teacher certification agencies may not have live scan technology, state police agencies may use such equipment, as more and more states come "on line" so they can use the FBI's Integrated Automated Fingerprint Identification System (IAFIS).

Live scan technology is being used, however, in both Alabama and California.² We also include in this section information on a few states that use some form of electronic means to check the criminal histories of teachers and other employees (New Mexico, Tennessee, and Utah).

Alabama: In 1997, Alabama Department of Education began requiring fingerprint background checks on new teachers coming into the system. These fingerprints were sent to the Alabama Bureau of Investigation for a state background check. Beginning in 1999, fingerprints were also forwarded to the FBI.

In 2001, Alabama lawmakers enacted legislation requiring that all current school employees—anyone with unsupervised access to a child—hired prior to 1999 must be fingerprinted. In order to accomplish this mandate, the Department of Education purchased electronic fingerprint imaging machines from Cross Match.³ With portable fingerprint scanners and laptops, department employees traveled throughout the state obtaining fingerprints of school employees. Technicians "burned" the fingerprint records to CDs, brought them back to Montgomery, downloaded them, and transmitted the records to the Alabama Bureau of Investigation for processing. The department has scanned 85,000 sets of prints.

According to June Maybury, coordinator of teacher certification, they have been pleased with the equipment and the service they received from Cross Match. The department will be purchasing more scanning terminals and deploying them throughout the state in local school districts. Ms. Maybury noted that not all districts would receive the live scan systems because some rural areas aren't equipped to use them. In those places, traditional fingerprint cards will still be used. However, the department can scan the paper cards into the system and still transmit the records electronically.

² You also asked about Pennsylvania. The Pennsylvania Department of Education explained to us that they do not do the actual fingerprinting and do not have live scan technology. However, the Pennsylvania State Police have implemented live scan technology in some areas of the state.

³ June Maybury, Coordinator of Teacher Certification, Alabama Department of Education, May 4, 2004. Ms. Maybury can be reached at 334-242-9560.

California: Live scan fingerprinting technology is available in almost every county in California, although the state uses both live scan and traditional fingerprint methods. California requires teachers to undergo a fingerprint background check for certification, but neither the Department of Education nor the California Commission on Teacher Credentialing actually "rolls" the prints. Persons wishing to be certified must obtain their own prints and submit them with their application packet.

Live scan technology is available to the public in 55 counties in California, usually at the local sheriff's office or the local police department. In addition to law enforcement agencies, several large school districts also offer live scan fingerprinting services.⁴ For example, the Inglewood, Long Beach, Los Angeles, Pasadena, and Sacramento Unified School Districts and the Santa Clara County Office of Education provide live scan fingerprinting. While the Sacramento USD offers services to the public, the Santa Clara Office of Education restricts its services to school employers, educational agencies, community volunteer organizations, and employers serving students, schools, and educational programs throughout the county.⁵

While teachers applying for certification can obtain traditional fingerprints, both the Sacramento and Santa Clara agencies encourage the use of live scan technology. Both are enthusiastic users of the technology. According to Sergeant Vince Matranga, chief of security for the Sacramento school district, the entire printing process takes about 15 minutes. The cost for implementing Sacramento's Cross Match system was \$22,000, which included the fingerprint machine, printer, and computer. As Sgt. Matranga notes, "Results from background checks through fingerprinting used to take three to four months, now it only takes two to three days."⁶

Applicants must make an appointment to have their fingerprints taken. If they choose to use live scan systems, they must a "Request for Live Scan Service" form from their prospective employers (who must be approved by the California Department of Justice) and bring the form to their appointment. We include copies of Santa Clara County's "Applicant Guidelines for a Live Scan," and "How DOJ Conducts Background Checks Using Live Scan" as Attachment A.

Prints, whether live scan or paper, are transmitted to the California Department of Justice (CDOJ) for processing. We include CDOJ's instruction manual for live scan applicant processing as Attachment B.

New Mexico: New Mexico state law requires that all applicants for initial educator licensure be fingerprinted for purposes of a criminal history background check. Applicants must submit to the Professional Licensure Unit of the New Mexico Public Education Department, two cards showing fingerprint imprints taken by a public law enforcement official trained to take fingerprints. Upon receipt by the Licensure Unit, cards are scanned into the unit's system where the image interfaces with the FBI's Integrated Automated Fingerprint Identification System (IAFIS). According to Joe Mendez, Assistant Director, results are obtained within minutes. We include the unit's instruction and documentation for obtaining and submitting fingerprints as Attachment C.

⁴ There are also several private vendors that offer live scan and traditional fingerprinting services in California.

⁵ "Fingerprint Live Scan Services," Santa Clara County Office of Education, <http://www.sccoe.k12.ca.us/depts/fingerprint/default.asp>.

⁶ "District Now Offers Fingerprinting Service to Prospective Employees," *The Connection*, Sacramento Unified School District, <http://www.scusd.edu/police/fingerprinting.htm>.

Tennessee: The Tennessee Bureau of Investigation has chosen to contract out fingerprinting services for the 65,000 applicant background checks, including those for educators, that the state is required to conduct each year. According to a 2002 press release, Sylvan/Identix Fingerprinting Centers provide fingerprinting services for both Tennessee and Illinois, using Identix Live Scan Systems.⁷ Among the advantages touted by the Centers' Employer Guide are the system's guaranteed legible fingerprints, lack of messy inks, fast response times, and convenient reporting options for employers.

Utah: The Utah Office of Education is also grappling with the issue of criminal history checks for teachers. Utah law requires educators seeking licenses and those whose licenses have lapsed to be fingerprinted for purposes of performing a criminal history background check. Under the current system, the state's Bureau of Criminal Identification runs fingerprints through the Western Identification Network, which includes criminal databases in Alaska, Idaho, Montana, Nevada, Oregon, Utah, and Wyoming, and then forwards them to the FBI. The process, however, can take up to eight weeks, and some substitute and volunteer teachers are not checked, according to a report in the *Deseret Morning News*.⁸ Although several school districts have expressed an interest in performing the background checks themselves, the Utah Legislature is reluctant to allow non-law enforcement personnel access to such private information.

I hope you find this information useful. Please do not hesitate to contact us if you have questions or need additional information.

⁷ In addition, the Chicago Board of Education has contracted with Art's Investigations of Chicago to provide live scan fingerprint services and criminal background checks. "Law Enforcement Officer Offers Fingerprinting Technology So Businesses Flourish in Safer Environment," *PR Newswire*, August 4, 2002.

⁸ Jennifer Toomer-Cook, "Teachers Behaving Badly," *Deseret Morning News*, March 15, 2004. We include a copy of this report as Attachment D.

Attachment A

"Applicant Guidelines for a Live Scan,"
Santa Clara County Office of Education,
<http://www.sccoe.k12.ca.us/depts/fingerprint/guidelines-sched.asp>



SANTA CLARA COUNTY OFFICE OF EDUCATION

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MAP

APPLICANT GUIDELINES FOR A LIVE SCAN

Note: Live scan fingerprinting is provided to applicants by APPOINTMENT ONLY.

To be fingerprinted using Live Scan, applicants are required to obtain a REQUEST FOR LIVE SCAN from the hiring employer or requesting agency (i.e., school district, community college, non-profit organization) prior to scheduling an appointment.

▶ STEP I	Obtain a Request for Live Scan Service
▶ STEP II	Schedule a Live Scan Appointment
▶ STEP III	Arrive Early for Live Scan Appointment
▶ CANCEL	To Cancel Your Appointment

▶ **STEP I OBTAIN A REQUEST FOR LIVE SCAN SERVICE**

Prior to scheduling your Live Scan appointment, you must obtain a Request for Live Scan Service (BCII 8016) form (except childcare licensing applicants-see below) from the employer or agency. SCCOE Live Scan Fingerprint Unit accepts Requests for Live Scan Service forms from any employer or agency approved for Live Scan by the DOJ (provided the form's information is complete). Please be aware that the SCCOE Fingerprint Live Scan Unit does not issue forms for any employer or agency (including the SCCOE). It is the applicant's responsibility to obtain the appropriate form(s) from employer (s)/agencies.

School Employee Applicants

For Classified Employment (including permanent positions, non-permanent or substitute assignments).

If you are an applicant selected for a classified permanent or classified non-permanent (substitute) assignment, a REQUEST FOR LIVE SCAN SERVICE form will be provided to you by the hiring school district/employer.

For Certificated Employment.

If you are an applicant selected for a teaching (certificated) position, the school district/employer will provide you with a REQUEST FOR LIVE SCAN. A second REQUEST FOR LIVE SCAN SERVICE form is



APPLICANT INFO

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• [Laws Requir Background](#)

• [How DOJ Cr Criminal Bar Checks](#)

• [Applicant Get a Live Scan](#)

• [Frequently / Questions' \(](#)

EMPLOYER/AGENCY

• [How to Rec Background Live Scan](#)

• [Why Employ SCCOE Live](#)

• [Fingerprint ! for School F](#)

• [SCCOE Live Clients](#)

required if you are an applicant applying for school district employment and, at the same time, applying to the California Commission on Teacher Credentialing (CCTC) for any of the following:

1. Out of State Credential Registration.
2. A Preliminary Teaching Credential.
3. A Substitute Teacher Permit

In such cases, the second REQUEST FOR LIVE SCAN SERVICE form will be provided to you by the Credential Services Unit at the Santa Clara County Office of Education (SCCOE) upon submission and completion of required documents.

Community Care Licensing Applicants

If you are an applicant requesting clearance for community care licensing including, adult residents, volunteers (under certain conditions) and employees of community care facilities who have contact with clients. You may obtain the Live Scan Application Submission form, information and updates from the licensed provider from any Community Care Licensing District Office. Please be aware that childcare licensing clients of the California Department must use the Request for Live Scan Service form, LCI 9163.

This form will also automatically request a Child Abuse Central Index (CACI) check if needed. The Child Abuse Central Index name check is an additional background check required for individuals associated to any facility that cares for children. This requirement became effective January 1, 1986. If the CACI check is required, an exemption cannot be granted until this portion of the background check is also cleared. Effective January 1, 1999, the Department of Justice provides CBCB with notification of any subsequent incidents of child abuse after the initial clearance.

All Other Applicants

All other applicants for state licensing or permits for occupations and positions such as Emergency Medical Technician (EMT), Notary Public, Nurse, Pharmacist, Real Estate, Social Worker, and Stockbroker should obtain a REQUEST FOR LIVE SERVICES form from their employer or agency representative (i.e., public employer, regulatory agency, state board, etc.).

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▼ STEP II SCHEDULE A LIVE SCAN APPOINTMENT

Prior to making appointment, you must register with us below. You will receive a confirmation via email with directions to access **SCCOE APPOINTMENT SCHEDULER** to schedule your time.

If you are a 1st time applicant for a credential or permit applicant,

please be sure to meet with the Credentials Department 45 minutes prior to your appointment time so that you can get your documents reviewed, approved and turned into credentials prior to your fingerprint appointment (please [click here](#) for more info.)

You must bring the following with you to your appointment in order to be processed:

- Livescan form from District/Agency or Program
- Driver's License, ID or Passport (If you are not a US citizen, you must have INS Authorization)
- Valid Social Security # on your livescan form
- Fees:
 - All County Clearance (Clearinghouse) \$58.00
 - Processing Documents \$55.00
 - For all outside agencies or licensing with a billing code \$15.00, without a billing code: DOJ \$47.00, FBI \$71.00
 - For all Educational Agencies with a billing code \$25.00, without a billing code: DOJ \$47.00, FBI \$71.00

If you have all of the above, [click here](#).

Appointments may be scheduled on-line using the **SCCOE APPOINTMENT SCHEDULER** or by telephone. Appointments are usually scheduled within 1 to 3 business days. However, during the peak school recruitment period (August 1 through October 31, the Live Scan Unit experiences a significant increase in the volume of requests for Live Scan. During such periods, an applicant's appointment may be scheduled 7-14 days in advance. Therefore, it is most important that you schedule your appointment shortly after obtaining your REQUEST FOR LIVE SCAN SERVICE form.

[CLICK HERE to schedule an appointment using the SCCOE scheduling system](#) or call (408) 453-6828. If the appointment Live Scan Technician is serving another applicant or unavailable, please leave a voice mail message with the following information: your name, hiring school district, and daytime and evening telephone numbers. The Live Scan Unit logs all appointment requests and returned telephone calls. Please be assured your call will be returned.

At the time your appointment is scheduled, the Live Scan Technician will request portions of the information provided on the Applicant Submission form. You will then be given a Live Scan appointment date and time.

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▼ STEP III ARRIVE EARLY FOR LIVE SCAN APPOINTMENT

- Upon your arrival, check-in at the fingerprint desk, the Live Scan Technician and will ask you for your completed Request for Live Scan form. Please arrive at least 10 minutes prior to your appointment time. The form's information will be entered into the Live Scan system followed by the scanning of your

- fingerprints scanned by the operator.
- You must also present a valid form of identification. This would include: driver's license from any state, as long as it's current and valid; California Identification card; or birth certificate, if under the age of 18 and do not possess a driver's license or CA ID card.
 - The Live Scan Technician will then inform you of the charges (if payment is required), which include all necessary services DOJ and FBI (and CACI if applicable) and the transmission of prints.
 - After obtaining your fingerprints and demographic information, the data will be electronically transmitted to DOJ for processing.
 - DOJ will send the results of the background clearance check to the requesting employer/agency (i.e., school district, community college, community care licensing agency, etc.).

NOTE: SCCOE Live Scan Technicians do not receive criminal background clearances or information. The fingerprints are forwarded to the Department of Justice (DOJ). If the DOJ does not provide your employer or agency with the criminal history information within 30 days, the employer/agency should file an inquiry with the Department of Justice (DOJ). The applicant should contact their respective employer or agency.

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▼ CANCEL TO CANCEL YOUR APPOINTMENT

If it become necessary to cancel your appointment, please call us, as soon as possible, at (408) 453-4305.

If the Live Scan Technician is serving another applicant or unavailable, please leave a message. Include your name, telephone number, and the date and time of the appointment to be cancelled.

Also indicate if you need to have your call returned to schedule another appointment, otherwise, we will assume that you will re-schedule your appointment using the on-line SCCOE appointment scheduler.

Date last updated: February 24, 2004

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HOW DOJ CONDUCTS BACKGROUND CHECKS USING LIVE SCAN

The days of rolling fingers across an ink pad, then struggling to get a good, readable fingerprint on a card are over thanks to Live Scan Technology. Live scan technology allows fingerprints and palm prints to be photographed digitally and instantly submitted along with the applicant's demographic data, to the California Department of Justice (DOJ) or FBI, electronically for processing. Fingers and palms are simply placed over a prism-shaped device called a "platen" and the print is photographed and can be seen instantly on a monitor.

In addition, the live scan system verifies the print quality of each finger and thumb and notifies the operator (person obtaining the prints) if it is a readable print or not. When fingerprint cards were used, if a print was unreadable, the card would be returned by the Department of Justice or FBI and the prints would have to be re-inked and resubmitted. That's good news for law enforcement and persons who need to be fingerprinted during the employment application process for a new job. Applicants for jobs such as school employees, child care workers, city workers and notary publics are required to have their criminal histories checked prior to employment or before an occupational license to is issued

Another improvement of the new Live Scan system is the quick turnaround of those background checks. Fingerprint ink cards required a minimum of four to six weeks to be processed. Live scan enables employers and agencies to receive an applicant's criminal history electronically usually within 72 hours (unless the employer/agency requires additional checks). Receiving criminal history information electronically (arrest and convictions, including misdemeanors and felonies) expedites the employment process for both employers/agencies and job applicants. In cases where an existing employee is subsequently arrested or convicted of a crime, Live scan will electronically notify the employer, expediting the employee's reassignment to another position or termination if required by California law.

It is important to note that Live Scan technology has been used in the booking areas at jails and detention centers throughout California for years and recently made available for public fingerprinting.

ONLINE INFORMATION

- [Classified Personnel Services](#)
- [Credential Services](#)



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Attachment B

"Applicant Processing Program
Live Scan Request Packet,"
California Department of Justice,
Office of the Attorney General



THE DEPARTMENT OF JUSTICE
BUREAU OF CRIMINAL IDENTIFICATION AND
INFORMATION
APPLICANT PROCESSING PROGRAM
LIVE SCAN REQUEST PACKET

**STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
BUREAU OF CRIMINAL IDENTIFICATION AND INFORMATION
APPLICANT LIVE SCAN**

OVERVIEW

Applicant Live Scan is a system for the electronic submission of applicant fingerprints and the subsequent automated background check and response. Live scan technology replaces the process of recording an individual's fingerprint patterns manually through a rolling process using ink and a standard 8" x 8" fingerprint card. Fingerprints can be printed and submitted on an 8" x 8" fingerprint card* or digitized through an electronic process (Live Scan), enabling the electronic transfer of the fingerprint image data, in combination with personal descriptor information, to central computers at the Department of Justice. This transfer of information takes place in a matter of seconds, instead of the days required to send hard copy fingerprint cards through the U.S. mail. The applicant visits an Applicant Live Scan satellite location where the fingerprint images and related data are electronically transmitted to the Department of Justice. The recent, rapid expansion of the number of applicant live scan devices has resulted in an ever increasing volume of applicants availing themselves of live scan technology.

With live scan, instead of the hard fingerprint card used in the manual process, the applicant is provided with a "Request for Live Scan Service" form (BCII 8016). The applicant is also provided with a list of nearby live scan locations and must go to one of the specified locations to submit fingerprints. At these locations, a trained operator enters the information from the BCII 8016 form into the live scan terminal and initiates the live scan fingerprinting process. After successful electronic capture of the fingerprint images and the accompanying data, the information is electronically transmitted to the Department of Justice.

Once the fingerprints and data are received by the Department of Justice they are electronically processed by the DOJ Networked AFIS Transaction Management System (NATMS). Most live scan submissions which have no data or quality errors and do not result in possible criminal history matches are processed automatically and are responded to electronically. Live scan transmissions requiring analysis of a criminal record are electronically sent to the Applicant Response Unit for analysis and dissemination. Live scan submissions are responded to by electronic mail, fax and/or U.S. mail when the electronic mail response or fax is not available.

The Department of Justice will also coordinate other electronic processes resulting from the automated submissions of fingerprints, including forwarding the fingerprints to the FBI (if required) and coordinating the collection of associated fees.

In order to request this service, you must first be authorized by the Department of Justice. You can obtain the forms to start the authorization process at www.caag.state.ca.us/fingerprints/forms.htm. If your agency has been previously authorized, complete the appropriate forms in this packet and submit them to the Department of Justice.

The demands on the Applicant Program continue to increase as the legislature and various public and private agencies recognize the importance of requiring fingerprint based criminal background checks for various employment, licensing and certification purposes. We sincerely hope that this information will be useful and will answer your questions about the electronic processing of fingerprints in California.

*** While DOJ strongly encourages the use of live scan technology, the use of the manual hard card will still be accepted and processed utilizing the standard FD-258 fingerprint card. These can be ordered by calling (916) 322-2209.**

**GUIDELINES FOR COMPLETING
"REQUEST FORM FOR ASSIGNMENT OF CONTRIBUTING
AGENCY ORI AND/OR RESPONSE MAIL CODE"**

CATEGORY	INSTRUCTIONS	COMMENTS
1) Request for ORI, Electronic Response Mail Code or Fax Mail Code:	Request for ORI box is mandatory if you want to submit via live scan. Your agency will be assigned a code by DOJ. Check other boxes if you wish to receive an Electronic or FAX response.	Note: Electronic responses will be sent to a secure mail server system from which you will retrieve your messages.
2) Contributing Agency Name, Mailing Address and Projected Monthly Submissions:	Agency name as you currently submit on your fingerprint cards, or the name that appears on your authorization letter. Your agency's mailing address, agency's city, state, zip code and projected monthly submissions.	
3) Contact Person:	Enter name of the person within your agency DOJ can contact if any questions arise.	
4) Phone Number:	Enter the contact person's phone number.	
5) Employment:	Check this box if you submit for employees and enter title or position. If you submit for all employees, state "all employees"	
6) License, Certification, Permit:	Check this box if you submit for licenses, certifications or permits and enter the types. If you submit for all licenses, certifications and permits, enter "all".	
7) Identify Licensing Agency:	If you checked the License, Certification, Permit box, please provide the licensing agency as it would appear on a fingerprint card.	
8) Volunteers:	Check this box if you submit for volunteers.	
9) Electronic Response Mailbox or FAX number:	Check this box if ALL SUBMISSIONS will be going to the same electronic response mailbox and or FAX number. If FAX provide the agency's Fax number.	
10) Designate More Than One Electronic Response Mailbox or FAX number:	Check the boxes that apply. If FAX please provide the Agency's Fax numbers.	Note: Electronic response mailbox will be set up according to application type.



**BUREAU OF CRIMINAL IDENTIFICATION
AND INFORMATION**
P.O. BOX 903417
SACRAMENTO, CA 94203-4170

**NOTIFICATION OF
ORI, MAIL CODE AND/OR BILLING NUMBER ASSIGNMENT**

Requesting Agency - please provide complete address. Also, please enclose a self-addressed mailing label so that we may return important information to you.

[_____]

[_____]

Listed below are the ORI, Mail Code and/or Billing Number assigned to your agency for applicant responses. Should your address or Fax number change, you must notify the Department of Justice immediately. Please forward any changes to the above address, **Attention: Applicant Program.**

ORI _____

Mail Code _____

Billing Number _____

If separate response locations have been requested, the assigned codes are as follows:

Type	ORI	Mail Code
Employment	_____	_____
Licensing, Certification or Permit	_____	_____
Volunteer	_____	_____

Please return the Request Form, Notification of ORI, Mail Code and/or Billing Number Assignment and Subscriber Agreement to:

Department of Justice
Applicant Processing Program-Live Scan Request
P.O. Box 903417
Sacramento, CA 94203-4170

DEPARTMENT OF JUSTICE APPLICANT LIVE SCAN BILLING PROCEDURES

With the implementation of Applicant Live Scan, the Department of Justice (DOJ) developed new procedures for the collection of fees and billing information. The first requirement for participation in this Applicant Live Scan is providing the DOJ with billing authorization to allow fee collection for services provided. Authorization must be provided in one of the following ways:

- Non-state live scan agencies (e.g. public schools) must complete a Memorandum of Understanding;
- State agencies (e.g. Social Services) with live scan devices must complete a new Interagency Agreement even if they currently have one; or
- Applicant agencies which wish to be billed for submitting fingerprints via live scan must complete a Fingerprint Services Billing Account Application.

These documents will result in the assignment of a unique billing number which must be entered by the live scan operator on all live scan transmissions. If your agency already has a billing number for the processing of manual fingerprint cards, the same billing number can be used for applicant live scan.

The following actions must occur to generate a monthly invoice for services and to ensure that the correct agency is billed for services received.

- The live scan operator must input a billing number on every applicant live scan transmission sent to the DOJ. The billing number keyed should be either the number for the live scan agency or the licensing applicant agency, to be determined as follows:
 - **Live Scan Agency:** If the live scan agency collects cash or a check for payment of the DOJ and/or federal services, the live scan agency **must be** the agency billed. In this case, the operator must always enter the billing number of the live scan agency into the transmission.
 - Please note:** If the applicant is fee exempt, the live scan operator must still enter the live scan agency's billing number into the transmission. No charges will be billed to the agency for fee exempt transmissions.
 - **Applicant Agency:** If the live scan agency does not collect payment, then the contributing applicant agency must be the agency billed. In this case, the live scan operator must always enter the applicant agency's billing number on the transmission. This number is found in the Contributing Agency Section (in the area titled "BIL") of the Request for Live Scan Applicant Submission form. This form must be provided by the applicant. If the applicant is not fee exempt, does not pay for services and there is no "BIL" number on the Applicant Submission form, the live scan operator should not fingerprint the applicant.

**DEPARTMENT OF JUSTICE
APPLICANT FINGERPRINT SERVICES
BILLING COVER SHEET**

Completion of this form is required for all agencies requesting an ORI number. Applicant agencies who do not wish to establish a billing account with DOJ should check the appropriate box below, complete the agency information, sign and return. Applicant agencies who currently have a billing account with DOJ or would like to establish one, please check the appropriate box and complete the applicable billing document described below.

- Do not establish a billing account at this time. Applicable fees will be paid at the time fingerprint services are rendered. (No additional forms are required.)
- Billing account currently exists with the DOJ. Account # _____.
- Establish a billing account for Applicant Fingerprint Services.

Completion of one of the enclosed billing documents is required to provide the DOJ with billing authorization to allow fee collection for services provided. Agencies with a live scan device on site are required to maintain a billing account with the DOJ. Applicant agencies without a live scan device wishing to participate in the DOJ billing process must complete and sign the billing document applicable to your agency, as described below.

- State Agencies with a live scan device must complete the Interagency Agreement for Live Scan Agency - (STD 13) **Note: This form must be completed even if agency already has a billing contract with DOJ.**
- Non-state agencies with a live scan device must complete the Live Scan Agency Memorandum of Understanding (9/98) **Note: This form must be completed even if agency has a billing contract with DOJ.**
- Applicant agencies wishing to be billed for submitting fingerprints via live scan **must** complete a Fingerprint Services Billing Account Application (11/98) **Note: Applicant agencies with an existing billing contract with DOJ do not have to submit another billing account application.**

Agency Name: _____

Address: _____

City, State, Zip: _____

Contact Person: _____

Phone: _____

Authorized Signature: _____

Printed Name and Title: _____

SECURITY OF CRIMINAL OFFENDER RECORD INFORMATION

Criminal Offender Record Information (CORI) is information identified through fingerprint submission to the DOJ with a criminal record or "No Record". It is confidential information disseminated to applicant agencies authorized by California statute for the purposes of employment, licensing, certification and volunteer clearances. The following information describes each agency's responsibility toward accessing, storage, handling, dissemination and destruction of CORI.

Background

Penal Code Sections 11105 and 13300 identify who may have access to criminal history information and under what circumstances it may be released.

The California Department of Justice (DOJ) maintains the California Law Enforcement Telecommunications System (CLETS) that provides law enforcement agencies with information directly from federal, state and local computerized information files. However, restrictions have been placed on the user to ensure that the rights of all citizens of California are properly protected.

Article 1, Section 1 of the California Constitution grants California citizens an absolute right to privacy. Individuals or agencies violating these privacy rights place themselves at both criminal and civil liability. Laws governing Californian's right-to-privacy were created to curb, among other things, the excessive collection and retention of personal information by government agencies, the improper use of information properly obtained for a proper purpose, and lack of a reasonable check on the accuracy of existing records. (*White v. Davis (1975) 13 Cal. 3d 757,775.*)

Employment Background Checks

It is only through the submission of fingerprints to the DOJ that the true identity of an individual can be established. In a 1977 lawsuit (*Central Valley v. Younger*), the court ruled that only arrest entries resulting in conviction, and arrest entries that indicate active prosecution, may be provided for evaluation for employment, licensing, or certification purposes.

Exceptions

Some statutory provisions, such as those relating to youth organizations, schools and financial institutions, further limit information dissemination to conviction for specific offenses. Records provided for criminal justice agency employment as defined in Section 13101 of the Penal Code are exempt from these limitations. In addition, arrest information for certain narcotic and sex crimes, irrespective of disposition, will be provided for employment with a human resource agency as defined in Section 1250 of the Health and Safety Code. Other exceptions are listed in the CLETS Policies, Practices and Procedures (Section 1.6.1).

As an agency receiving background clearance information in response to the submission of applicant fingerprint cards to DOJ you are aware of the regulations regarding the security of the hard copy information which you currently receive. The purpose of this Subscriber Agreement is to restate existing regulations and clarify how they apply to the electronic receipt of this same information via fax or e-mail. There are no new regulations. Items 1, 2, 4, 5, and 7 restate existing regulations relative to receiving hard copy information; item 2 has been expanded to include electronic information. Items 3 and 6 are intended to clarify these regulations relative to electronic information.

APPLICANT FINGERPRINT RESPONSE

SUBSCRIBER AGREEMENT

In accordance with section 11077 of the Penal Code, the Attorney General is responsible for the security of criminal offender record information. Section 707(a) of the California Code of Regulations requires that **"Automated systems handling criminal offender record information and the information derived therefrom shall be secure from unauthorized access, alteration, deletion or release. The computer terminals shall be located in secure premises"**.

This agreement is between the (name of agency) _____ and the California Department of Justice for the purposes of the exchange of criminal offender record information. The above agrees that:

1. Criminal offender record information and the information derived therefrom shall be accessible only to the records custodian and/or hiring authority charged with determining the suitability of the applicant.
2. Confidential information received electronically or via mail shall be used solely for the purpose for which it was requested and shall not be reproduced for secondary dissemination.
3. Notwithstanding other statutory authority, information received shall not be stored electronically and will be destroyed after the hiring or licensing determination. Destruction of this information shall be to the extent that the identity of the individual can no longer be reasonably ascertained.
4. Criminal history background checks have been completed on all individuals with access or proximity to terminals or fax machines receiving criminal offender record information.
5. Staff with access to criminal offender record information have received training and counseling on the handling of criminal offender record information and have signed employment statement forms acknowledging an understanding of the criminal penalties for the misuse of criminal offender record information (Penal Code Sections 502, 11142 and 11143).

REQUEST FOR LIVE SCAN SERVICE

Applicant Submission

ORI: 1. _____ <small>Code assigned by DOJ</small>		Type of Application: 2. _____	
Job Title or Type of License, Certification or Permit 3. _____			
Agency Address Set Contributing Agency:			
4. _____ Agency authorized to receive criminal history information		5. _____ Mail Code (five digit code assigned by DOJ)	
Street No. _____ Street or P.O. Box _____		6. _____ Contact Name (Mandatory for all school submissions)	
City _____ State _____ Zip Code _____		() 7. _____ Contact Telephone No. .	
Name of Applicant: 8. _____ <small>(please print)</small> Last First MI			
Alias: _____ Last First		Driver's License No. _____	
Date of Birth: _____ Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female		Misc. No. BIL - 9. _____ <small>Agency Billing Number (if applicable)</small>	
Height: _____ Weight: _____		Misc. No: _____	
Eye Color: _____ Hair Color: _____		Home Address: 10. _____ <small>Street or P.O. Box</small>	
Place of Birth: _____		_____ <small>City, State and Zip Code</small>	
SOC: _____			
Your Number: 11. _____ <small>OCA No. (Agency Identifying No.)</small>		Level of Service <input type="checkbox"/> DOJ 12. <input type="checkbox"/> FBI	
If resubmission, list Original ATI No. 13. _____			
Employer: (Additional response for agencies specified by statute)			
14. _____ Employer Name			
Street No. _____ Street or P.O. Box _____		Mail Code (five digit code assigned by DOJ) _____	
City _____ State _____ Zip Code _____		() _____ Agency Telephone No. (optional)	
Live Scan Transaction Completed By: _____ <small>Name of Operator</small>		Date: _____	
Transmitting Agency _____		ATI No. _____	
		Amount Collected/Billed _____	

BCII 8016 (Rev 04/01) ORIGINAL-Live Scan Operator; SECOND COPY-Requesting Agency; THIRD COPY-Applicant

ORDER FORM

REQUEST FOR LIVE SCAN SERVICE - APPLICANT SUBMISSION

FORM BCII 8016/8016A

BY FAX: (916) 227-2000

BY PHONE: (916)322-2209
Press Option 7

**BY MAIL: DEPARTMENT OF JUSTICE
APPLICANT PROCESSING PROGRAM-LIVE SCAN REQUEST
P.O. BOX 903417
SACRAMENTO, CA 94203-4170**

PLEASE INCLUDE THE FOLLOWING INFORMATION:

AMOUNT ORDERED _____ (PLEASE LIMIT YOUR ORDER TO A 3 MONTH SUPPLY)

Agency Name: _____

Contact Person: _____

Mailing Address: _____
Street

City State Zip

Phone Number: _____

Date Requested: _____

FOR DOJ USE ONLY

DATE MAILED: _____

Attachment C

"Fingerprinting for Background Checks,"
New Mexico Public Education Department
<http://www.ped.state.nm.us/div/ais/lic/dl/fingerprinting.pdf>

FINGERPRINTING FOR BACKGROUND CHECKS

New Mexico Statutes and State Board of Education Rules require that all applicants for initial educator licensure be fingerprinted in order to establish positive identification for a state and federal (FBI) criminal history background check. Your fingerprints will be used to access FBI criminal history records. A license may be denied if the background check reveals a criminal history of convictions of felonies or misdemeanors of moral turpitude or other documented evidence of improper behavior that could establish unfitness for working in proximity to children and youth.

Fingerprints should be taken by a public law enforcement official or other agency staff trained by the New Mexico Department of Public Safety (DPS) or equivalent state agency in another state. If an unqualified person takes the fingerprints, the chances that the prints will be unclassifiable are greatly increased. Public law enforcement agencies include the Department of Public Safety, county sheriff, as well as state, municipal, campus, military and tribal police. In some locations it may be possible to find other agencies with staff trained by DPS to take fingerprints, including some local school districts.

It is advisable to call law enforcement agencies prior to going to their offices in order to get information about the location of the fingerprinting operation and office hours. In some areas these agencies may have agreements among the various jurisdictions regarding a single agency in a region that will do fingerprinting for background checks. Often the fingerprinting operation is at the local detention center and not at police headquarters. Some agencies may also charge a fee to take the fingerprints. Calling ahead to get information can save time and unnecessary frustration.

Licensure applicants are encouraged to submit fingerprint cards at the same time as the application form for licensure, although they may be submitted separately. The background check process at the State Department of Education takes about two weeks if everything is submitted correctly by the applicant, and if the fingerprints are clear and classifiable. Errors or unclassifiable fingerprints can more than triple the time required to complete the criminal history background check. State Board of Education Rules provide **that the Department will not issue an educator license, even a temporary one, prior to the completion of the background check process.**

The Professional Licensure Unit will accept background check clearances from other agencies in lieu of fingerprinting if three conditions are met: 1) the clearance was based on fingerprint identification of the applicant; 2) the other agency will provide a clearance statement or copy of the FBI report to Licensure; and 3) the date of the FBI report is not more than one year old.

INSTRUCTIONS FOR FINGERPRINTING

Applicants must submit two classifiable fingerprint cards to the Professional Licensure Unit at the Department of Education. The fingerprint cards must be standard eight-inch square cards printed by the FBI with the word "APPLICANT" in the upper left-hand corner. Any FBI "APPLICANT" fingerprint cards may be used. Cards may be obtained from the State Department of Education or from a local New Mexico school district. Sometimes law enforcement agencies will have "APPLICANT" fingerprint cards.

1. Fill out **two** fingerprint cards supplying the information requested in the boxes circled on the attached fingerprint card sample. Do not complete the box "SIGNATURE OF THE PERSON FINGERPRINTED" until you take the card to the agency doing the fingerprinting. You will sign the card in the presence of the person taking your fingerprints.
2. Take the **two** fingerprint cards, the attached Fingerprint Certificate Form, and **picture identification, such as a driver's license**, to a public law enforcement agency or other agency with staff trained to take fingerprints. Each set of two fingerprint cards will have one Fingerprint Certificate Form. The law enforcement official or person authorized to take fingerprints will first establish your identity, have you sign the card in the "SIGNATURE OF THE PERSON FINGERPRINTED" box, then take the fingerprints. Be sure that he/she also fills out and signs the Fingerprint Certificate Form. **DO NOT LEAVE FINGERPRINT CARDS WITH A LAW ENFORCEMENT AGENCY FOR PROCESSING.**

The items listed below must be mailed to the
Department of Education, preferably with the licensure application package:

- 1) Two completed fingerprint cards
- 2) One completed Fingerprint Certificate Form
- 3) A Cashier's Check or Money Order for \$34 written to the New Mexico Department of Education. If you are submitting your licensure application at the same time as the fingerprint cards, this \$34 fee may be paid along with the application fee in one cashier's check or money order to the New Mexico Department of Education.

OTHER FORMS OF PAYMENT WILL NOT BE ACCEPTED

ADDRESS:

State Department of Education
Professional Licensure Unit
300 Don Gaspar
Santa Fe, NM 87501-2786

CAUTION IN MAILING:

DO NOT FOLD OR BEND THE
FINGERPRINT CARDS. USE
AN ENVELOPE LARGE ENOUGH
TO ACCOMMODATE THE CARDS
LYING FLAT AND OPEN. FOLDED
OR DAMAGED CARDS MAY BE
RETURNED, CAUSING DELAY.

If you have any questions about the fingerprinting process, please call the Professional Licensure Unit at the State Department of Education at (505) 827-6587.

FINGERPRINT CERTIFICATE FORM

New Mexico State Department of Education

THIS FORM WILL BE COMPLETED BY THE AGENCY OFFICIAL TAKING THE FINGERPRINTS AND SENT BY THE APPLICANT TO THE DEPARTMENT OF EDUCATION.

The undersigned hereby certifies that I am, or am a representative of:

The Chief of Police of _____
check City, Town, Municipality, State

Sheriff of _____
check County State

The Dept. of Public Safety or State Police of _____
check State

The Tribal Police of _____
check Tribe

The Campus Police _____
check University, College, School

Public School District _____
check District

Other Organization or Agency _____
check Name

and that on _____
Date (MM,DD,YY)

I took the fingerprints of _____
full legal name (CLEARLY PRINTED)

whose social security number is _____ - _____ - _____

and whose birthday is _____ MM _____ DD _____ YY, and whose

mailing address is: _____

I further certify that the applicant presented appropriate documentation of his/her identity before fingerprinting.

Signature of fingerprinting official Printed name of fingerprinting official

FINGERPRINTING AGENCY STAMP IN THIS SPACE:

To avoid rejection of fingerprints by the FBI as "unclassifiable," examine the fingerprint impressions after they are taken. Look for these characteristics of good prints:

- 1) Are the fingerprint ridges clearly visible on each print or are the fingerprint impressions too dark or too light?**
- 2) Are the fingerprints clear and "in focus" or do they appear smudged?**
- 3) Were your fingers fully rolled from the nail on one side to the nail on the other side? If the fingers were properly rolled, each individual print will have a square appearance in the boxes.**
- 4) If some physical or skin condition makes it impossible to get perfect impressions, the person taking the fingerprints should indicate "Best Prints Possible" due to _____, on the card.**

Attachment D

Jennifer Toomer-Cook,
"Teachers Behaving Badly,"
Deseret Morning News, March 15, 2004
<http://deseretnews.com/dn/view/0,1249,595049061,00.html>

deseretnews.com

Deseret Morning News, Monday, March 15, 2004

Teachers behaving badly

Utah schools work to screen bad eggs among applicants

By Jennifer Toomer-Cook

Deseret Morning News

Sex with students.

Buying drugs from kids.

Writing pornographic stories about children on school computers.

Utah schools have been investigating a rash of misconduct by their employees.

The activity raises questions as to how the public school system screens its hires.

Education leaders insist they go as far as the law allows to ensure children are kept safe and say the system is working well.

But they also believe the system has a crack that could let undesirables seep in. Just how to seal it, however, is up for debate.

State law requires prospective and license-lapsing teachers to be fingerprinted and undergo a criminal background check, either through colleges of education or the State Office of Education.

Information goes to the Utah Bureau of Criminal Identification. The BCI runs names and birthdates through a state criminal system for active warrants in Utah and across the country. Fingerprints are run through the Western Identification Network, which includes criminal databases in Alaska, Idaho, Montana, Nevada, Oregon, Utah and Wyoming, then forwards them to the FBI.

BCI checks done for the State Office of Education include expunged records, which could include DUIs and some felonies, though typically not serious sex offenses, BCI manager Alice Erickson said.

Licenses are printed once the checks come back, the State Office of Education reports.

But other school employees are treated differently.

Substitute teachers are not checked by the FBI, said George Welch, human resources executive director in Jordan School District, the state's largest.

Volunteers are checked only if districts determine they have "significant unsupervised access" to students.

"We certainly are trying to be as vigilant as we can. I think in our district, we go, in some ways, overboard in fingerprinting," Welch said. "I think it is some deterrent. But it is my belief if a person has a propensity to be around young children, they'll find ways to get around that."

Slipping the system

Three years ago, a Granite District substitute teacher was arrested for investigation of sexual abuse of a 14-year-old relative. The man had been put to work before completion of his background check, which later revealed convictions of providing alcohol to a minor, lewdness and other crimes.

He would never have been hired.

But districts say a substitute teacher shortage has forced them either to leave a classroom unsupervised or staff it with a someone still being checked out.

BCI checks take an average of four weeks, Erickson said.

But they can take six or eight weeks, said Martin Bates, attorney and Granite assistant to the superintendent.

Both Granite, the state's second-largest school district, and Jordan employ substitutes before knowing their criminal histories. But as a safety net, applicants are asked whether they have been convicted of anything besides a minor traffic accident, placed on probation, had a plea in abeyance or await criminal proceedings, Welch said.

Problems are rare. Of Jordan's most recently submitted 169 fingerprints — just shy of a month's load — five were flagged, Welch said. Most were minor, including a warrant for having a loose dog. But about once a month, he finds an unacceptable crime requiring dismissal. None of those people have been reported for misdeeds during their substituting stints.

First-time offenders

Often, teachers with apparently clean pasts are the ones getting in trouble.

Between 2000 and 2003, nearly 190 teachers were investigated for inappropriate behavior, said Jean Hill, educational specialist, investigator and prosecutor for the State Office of Education.

Utah has more than 22,000 licensed teachers.

Some have been disciplined following investigations, Hill said:

- A Tooele District teacher's license was revoked for 10 years for using a work computer to write pornographic stories that included children.
- A Uintah District teacher lost her license for being at school under the influence of alcohol.

Other professionals have encountered legal troubles in recent months.

- A Northridge High counselor was charged with two counts of first-degree felony rape for allegedly having sex with a 17-year-old female student.
- A substitute teacher faces two counts of aggravated sexual abuse of a child, a first-degree felony, after allegedly grabbing a student's breast at Matheson Junior High in Granite District.
- A Hurricane High teacher was charged with three counts of misdemeanor violation of privacy in connection with an off-campus Peeping Tom case. The allegations do not involve students.

- A former Payson High teacher was ordered to drug court following charges he allegedly bought dope from his students.

"There's no way you can prevent that, someone doing something," Erickson said. "If they're first-time offenders, there really is no way to check them."

Sealing system cracks

Sometimes, even past troubles can be shielded.

Some people might cut deals with prosecutors so charges are reduced to crimes that don't raise concerns under background checks. Some cases are decided in juvenile courts, whose files are kept secret.

BCI's seven-state check, Welch notes, doesn't include the populous state of California.

Sometimes, school districts agree to stay quiet about misdeeds if a teacher agrees to leave. But Hill believes that has become less of a problem: "Districts are realizing they're not going to be held liable for giving factual information to another district."

There's a national database, overseen by the National Association of State Directors of Teacher Education and Certification, that aims to address criminal history gaps. It lists teachers whose licenses have been suspended, denied for cause or revoked. But using it is voluntary.

Wasatch Front school districts say there's another way to reduce risks: Let districts do pre-employment background checks themselves. "But our Legislature has opted in favor of personal privacy when they've had opportunities to review this," Bates said.

The BCI has sole legal power to do those checks, mainly because it can dig up private information. Erickson also says it could take up to a year to train schools to use the system.

But districts say they could appoint one official to do checks, cutting opportunities for misuse. The district could turn around information faster than BCI, and therefore stop employing people before knowing they're clean.

Last year, BCI sent to the FBI fingerprints of almost 21,900 job applicants, including nurses, armed guards and teachers, Erickson said. Perhaps 30,000 more underwent only the western state checks.

BCI employs 10 fingerprint technicians, Erickson said.

Maybe that's not enough, said Rep. Ty McCartney, D-Salt Lake, a sheriff's detective working for the Salt Lake County Metro Gang Unit.

"I'm not comfortable with non-law enforcement personnel having access to BCI," he said. "If anything, I think there should be more personnel allocated to provide a better response."

Schools also follow some law enforcement agencies and interview job applicants' neighbors, relatives, friends and references before hiring them, McCartney said.

Still, passing that level of scrutiny to the BCI, police or districts would be costly.

McCartney said each applicant's interviews would take about two days' worth of work. If an agency paid \$16 an hour, that's \$256 in labor costs per job applicant.

That's more than 17 times the cost of the basic \$15 BCI check.

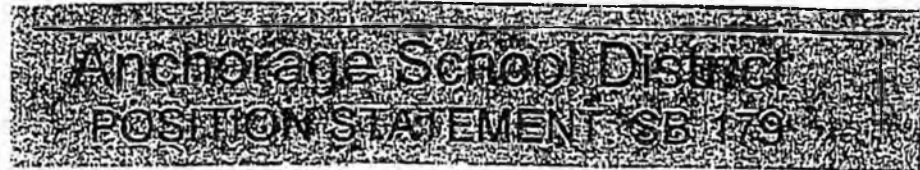
Jordan District alone checks about 200 people a month.

"It comes down to money. How much is the state willing to pay for the security in our schools?" McCartney said. "You get what you pay for."

Contributing: Jennifer Dobner; E-mail: jtcook@desnews.com

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April 20, 2004



W) 907-742-4322 (F) 907-742-4175

TO: HOUSE EDUCATION COMMITTEE
FROM: LARRY WIGET, EXECUTIVE DIRECTOR, PUBLIC AFFAIRS
SUBJECT: SB 179: CRIMINAL BACKGROUND CHECKS

The Anchorage School District supports 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 due to a delay in receiving criminal history records.

Currently, it takes 90 – 120 days to get national background checks back. We may have teachers in the classroom who have submitted all their paperwork and have done what they can for the background check; however, we do not get certification back from the Department of Education and Early Development because they are waiting on background criminal history records.

The Anchorage School District does a local background check, but the national check may take 3 – 4 months. Therefore, the Anchorage School District supports the additional 60 days beyond the current three months if the department grants a written extension.

Contact: Eric Tollefsen, Executive Director, Human Resources
Tollefsen.Eric@asdk12.org 742-4323

Subject: Teacher Fingerprint Bill Input

Date: Tue, 20 Apr 2004 15:05:56 -0800

From: Dale Seay <dseay@northstar.k12.ak.us>

To: cody_rice@legis.state.ak.us

CC: Lynd: Sather <lsather@northstar.k12.ak.us>

Cody,

I was asked to provide you with input regarding the proposed provision to allow DEED to extend for an additional 60 days (90 days are in current legislation) the allowance for school district to employee teachers while waiting for their fingerprint results.

For the last 3 years, it has taken a minimum of 110 days, while routinely taking in excess of 120 days, to receive FBI fingerprint results. The proposed provision would actually bring current statute in line with actual practice. The length of time it takes to receive the fingerprint results is not controlled by either the DEED nor the individual school districts. I cannot imagine the state attempting to enforce the current 90 day rule...and what the impact would be on the classroom if we routinely were "pulling" our teachers out of the classroom just because the FBI couldn't turn around the results within the 90-day time frame.

Dale Seay
Executive Director of Human Resources & Safety
Fairbanks North Star Borough School District
907-452-2000 X396 / 590-3749 (cell)
www.northstar.k12.ak.us/hr/index.html

Cody Rice

From: Mr. Wilson [wwilson@hbsd.net]
Sent: Wednesday, April 21, 2004 4:37 PM
To: Cody Rice
Subject: Re: SB 179

Dear Representative Gatto,

I am writing in support of the extended time for fingerprints to clear. I am in full support of the extra time since without the time there is often a total disruption in the classroom. Sixty percent of our teachers are recruited from outside of Alaska since our university system is not capable of filling the teacher needs of our state.

Scenario

Teacher is recruited from out of state and moves to bush Alaska to teach in a remote village. This often times happens in July or sometimes later in the year. This teacher, in good faith, moves to the village with his two children and his wife where he begins teaching. He has submitted all the necessary paperwork to DEED in August and has everything back with the exception of his fingerprint approval. At eighty days the personnel officer of Example School District receives a note from DEED's Certification Department saying the FBI needs another set of prints. The personnel officer calls the teacher at the remote site within the school district and informs him of the need for new prints. The teacher must take a personal day away from kids to then fly to the nearest larger municipality to have a new set of prints taken since no one in the village can do this. If the weather is bad this could take several days. The teacher could also get weathered out of the village and students would be without their teacher for this period of time. In most villages there are not certified substitute teachers.

The second set of prints are then sent to DEED and forwarded on to the Feds. If the second set takes too much time the teacher's temporary status allowing him to teach expires. At this point the district must find a sub or replace the teacher. Finding a certified sub in the village is highly unlikely so the superintendent could hire the same teacher as his own sub. If this happens it messes up the teacher's retire since now he is now no longer a certified teacher. Superintendents are supposed to find certified teachers for long term subs and this may not be possible at this time of the year for a remote site.

The teacher, of course, is now being paid as a non-certified sub instead of on a teacher's salary. The teacher now has to make a decision to stay and hope the

fingerprints clear quickly or to move back to his former state with his family and look for work there, since he probably has an active teaching credential in the state from which he came.

Replacing the teacher, assuming the teacher leaves the state, is not an easy task for Example School District. Now they have to look for a teacher to move into a village in the middle of the school year to take over a vacated classroom. In the mean time the students have been without a consistent, highly qualified teacher.

If the teacher's credentials require special education, math, or science it is highly unlikely there will be any applications at this time of year. Example School District may have to serve out the rest of the school year with a teacher who is not properly endorsed or is not highly qualified. This could cause the district to go on a plan of improvement since teacher qualifications are important to NCLB.

This is not an unusual scenario. This does and will happen. It can be avoided with a grace period in either the regulation or the law. Please consider this extension.

Thank you for your consideration.

Sincerely yours,

Woody Wilson
Superintendent, Haines Borough School District

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TO: Representative Peggy Wilson, Alaska State Legislature
FM Ronald J. Payne, General Director and CEO
RE: SB 179
DT: March 31, 2004

Last week while I was in Juneau officiating the Gold Medal Basketball Tournament, I learned of SB 179. I feel compelled to share my concerns. I'm horrified that anyone might think teachers should be given a five-month grace period in which to complete a criminal background check while they are working with children. It's dangerous, in any form.

During my 36-year career with the YMCA, the safety and well being of children has been my top priority. In the 1980's while I was employed by the YMCA of Greater Seattle we instituted policy to do background checks on all staff prior to their employment with the organization. In 1994 I became the General Director and CEO of the YMCA of Greater Sacramento. I immediately initiated a background check procedure for all staff and volunteers. The California Department of Justice provides a service for non-profit organizations to have their employees and volunteers screened for previous violent and inappropriate behavior. All staff and volunteers must clear background checks before they are permitted to work with children at our YMCA. It's critical for reasons of safety.

Over the years I have noticed that about one in 100 people who apply to work or volunteer at the YMCA do not tell us everything they should about their past and that information is discovered during our background check procedure. California uses the "Livescan" system and usually a background check is completed in a few days. I've also noticed that when a background check takes longer, it's because the applicant had a previous issue.

A few years ago one of our YMCA Branches planned to hire a Youth Sports Director. At that time the applicant was employed by another youth serving organization in the Sacramento area. The background check was slow to come back, and the branch staff asked for an exception to hire the applicant before he was officially cleared because he had superior references from his current employer, and we were short of staff. As the CEO of the YMCA, I did not allow the exception, and that didn't make my staff happy. A few weeks later the background information arrived and indicated that the applicant was a convicted of murder and was still on probation. Needless to say, following our procedure was prudent for the YMCA. Because of privacy laws, I could not release that information to the organization where he was currently employed.

SB 179 opens the possibility that a teacher may have a previous issue that is not disclosed on their application. For the safety of children, I encourage you to background check all teachers prior to employment. Please contact me if you would like additional information.



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We build strong kids,
strong families, strong communities.