

ALASKA LEGISLATURE COMMITTEES, 2003-2004

1802 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

SB

82

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

January 27, 2004

Honorable Fred Dyson, Chairman
Senate Health, Education and
Social Services Committee
Alaska State Capitol, Rm. 121
Juneau, AK 99801

Dear Senator Dyson,

The Department of Health and Social Services respectfully requests a hearing in the Senate Health, Education, and Social Services Committee on Senate Bill 82 "An Act relating to child protection, including forensic interviews and transportation of children; and providing for an effective date."

This bill would amend AS 47.17.064 to permit the department, or certain persons authorized by the department, to conduct, without first notifying the child's parents, a forensic interview of a child suspected of suffering sexual abuse or physical harm as a result of child abuse or neglect.

A copy of Governor Murkowski's transmittal letter providing additional information on the bill and the associated fiscal note should be on file with the committee.

Your favorable consideration of this request will be appreciated.

Sincerely,


Sherry Hill, Special Assistant
Office of the Commissioner

cc: Kevin Jardell, Legislative Director
Office of the Governor

Marcie Keenai, Deputy Commissioner
Division of Health Care Services

5582



FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 25, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to child protection, including forensic interviews and transportation of children.

Under current AS 47.17.064, the Department of Health and Social Services (department) may take photographs of areas of trauma visible on a child, and have x-rays and medical examinations done, without first notifying the child's parents, if the department has reasonable cause to suspect that the child has suffered physical harm as a result of child abuse or neglect. This bill would amend AS 47.17.064 to permit the department, or certain persons authorized by the department, to conduct, without first notifying the child's parents, a forensic interview of a child suspected of suffering sexual abuse or physical harm as a result of child abuse or neglect.

Implicit in the existing statute is the recognition that the department has the authority to transport a child in order to take the photographs or to have the medical examination or x-rays done. This bill would amend AS 47.17.064 to make it explicit that the department has that authority, as well as the authority to transport a child for purposes of conducting a forensic interview authorized by the bill. The clear authority to transport the child for these procedures is key to ensuring that they can be conducted in an appropriate environment that is not threatening to the child.

The bill also would give the state and the department, its officers, its employees, and its agents certain immunity for certain actions taken related to the transportation of a child under AS 47.17.064.

I urge your prompt and favorable action on this measure.

Sincerely yours,

Frank H. Murkowski
Governor

Enclosure

COMMI, FREE COPY

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 82
 (S) Publish Date: 1/26/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title FORENSIC INTERVIEWS AND
TRANSPORTATION OF CHILDREN

RDU Children's Services

Component Front Line Social Workers

Sponsor (RLS) BY REQUEST OF THE
GOVERNOR

Requester GOVERNOR

Component No. 2305

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The intent of this proposed legislation is to allow the department to transport a child for medical examinations and/or forensic interviews without parental permission in cases where the department has reasonable cause to suspect that a child has been physically and/or sexually abused. It is important that forensic interviews of children who appear to have suffered severe physical or sexual abuse be conducted in an appropriate environment that is not threatening to the child. When one or potentially both of the parents are the alleged perpetrators, it is not always possible to obtain parental cooperation to transport children for examinations. Child advocacy centers are facilities that are designed to be safe, neutral places, where children can be interviewed by professionals with special training in these areas. They are also designed to minimize the number of interviews that a child may have to go through in an effort to minimize the trauma as much as possible. We anticipate no fiscal impact.

Prepared by: Marcia Kennai, Deputy Commissioner
 Division: Office of Children's Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-3191
 Date/Time 01/14/2005
 Date 01/18/2005

* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT; FINDINGS. (a) The Legislature recognizes the serious need for the adequate assessment of children who are victims of child sexual abuse and serious physical abuse. No child in Alaska should be denied access to comprehensive services during a child abuse investigation, including medical assessment because of inability to pay

(b) Child Advocacy Centers are desirable in promoting a timely, coordinated, multi-disciplinary approach for the investigation, treatment and prosecution of child abuse cases, thereby enhancing the safety of children within Alaska, minimizing trauma created for children and their families, and holding more offenders accountable for their behavior.

(c) The cost of not assessing and treating abused children thoroughly is too high. It is the purpose of this Act to help ensure that when ever possible, children reasonably suspected to have been subject to child sexual abuse or serious physical abuse receive a skilled, complete and therapeutic child abuse medical assessment and videotaped forensic interview at a Child Advocacy Center.

On page 2, lines 10 – 14, delete all material and replace with the following:

“ (1) ‘child advocacy center’ means a facility with a child-focused, community partnership committed to a multidisciplinary team approach that includes representatives from law enforcement, child protection, criminal prosecution, victim advocacy, and the medical and mental health fields who collaborate and assist in investigations of allegations of sexual or other abuse, and neglect, of children.”

AMENDMENT

TO: Senate Bill 82

On page 1, line 2 – following the word “children:” insert the following:
“provide: a definition for a child advocacy center;”

On page 1, line 4 – insert a new Section 1 as follows (and renumber following sections accordingly):

* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT; FINDINGS. (a) The Legislature recognizes the serious need for the adequate assessment of children who are victims of child sexual abuse and serious physical abuse. No child in Alaska should be denied access to comprehensive services during a child abuse investigation, including medical assessment because of inability to pay

(b) Child Advocacy Centers are desirable in promoting a timely, coordinated, multi-disciplinary approach for the investigation, treatment and prosecution of child abuse cases, thereby enhancing the safety of children within Alaska, minimizing trauma created for children and their families, and holding more offenders accountable for their behavior.

(c) The cost of not assessing and treating abused children thoroughly is too high. It is the purpose of this Act to help ensure that when ever possible, children reasonably suspected to have been subject to child sexual abuse or serious physical abuse receive a skilled, complete and therapeutic child abuse medical assessment and videotaped forensic interview at a Child Advocacy Center.

On page 2, lines 10 – 14, delete all material and replace with the following:

“ (1) ‘child advocacy center’ means a facility with a child-focused, community partnership committed to a multidisciplinary team approach that includes representatives from law enforcement, child protection, criminal prosecution, victim advocacy, and the medical and mental health fields who collaborate and assist in investigations of allegations of sexual or other abuse, and neglect, of children;”

240-1
2/7/2005
(3:40 PM)

AMENDMENT

OFFERED IN THE SENATE HEALTH,
EDUCATION AND SOCIAL SERVICES COMMITTEE
TO: SB 82

BY Dyson
by request of OCS

1 Page 1, line 8, following "cause":
2 Insert ", as documented by the department, "

3
4 Page 2, following line 14:
5 Insert the following new material:

6 "(2) "forensic interview" means a structured interview that employs
7 objective and age-appropriate questioning techniques to elicit accurate and reliable facts
8 that may be used in court proceedings;"

9
10 Page 2, line 15:
11 Delete "(2)"
12 Insert "(3)"

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/26/05

FURTHER: Judiciary

Date of 5-Day Notice: _____
(In accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2.17.05

Health, Education and Social Services Committee considered

SENATE BILL NO. 82

SB 82 CHILD PROTECTION INTERVIEW & TRANS

"An Act relating to child protection, including forensic interviews and transportation of children; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 82 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indel.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indel.	Zero	FN#
HSS	1/18			X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS	FOR	AGAINST	NO REC	ABEND
<i>K. X 95</i>			✓	
<i>Erinny Wyle</i>			✓	
<i>Robert Green</i>				✓
<i>Richard Cole</i>				✓
CHAIR: <i>Paul Dyer</i>	✓			



Health, Education, and Social Services Committee Alaska State Senate

To: Senator Ralph Seekins, Chair
Senate Judiciary Committee

From: Senator Fred Dyson, Chair
Senate H.E.S.S. Committee

Date: February 18, 2005

Re: SB 82—"An Act relating to child protection, including forensic interviews and transportation of children; and providing for an effective date."

The Senate Health, Education, and Social Services Committee recently passed SB 82, and the bill is next referred to the Senate Judiciary Committee. During the H.E.S.S. Committee's deliberation, a provision in the bill—explained below—attracted attention that the committee did not resolve. The Committee decided to pass the bill on to Judiciary, so that the members could debate its legal matters, and requested an additional referral back to H.E.S.S. so that our members could again consider the provisions in light of any further discussion and amendments by the Judiciary Committee. I and my committee staff will attend the Judiciary hearings and will follow the discussion on this matter.

In the proposed new sections AS 47.17.064(c) and (d), the Department of Health and Social Services is given authority to transport children for forensic interviews—without the permission of the parents—if the department has reasonable cause to believe that sexual abuse or physical harm occurred because of child abuse or neglect. According to the bill, this transportation would not constitute "emergency custody."

Legal testimony, from outside government bureaucracy, cautioned against this language because of a lack of due process available to parents. It is understandably important that the State's child protective services have the authority to investigate sexual abuse or physical harm free from parental interference and coaching, but protection is needed to guard parents against losing control of their children and slanderous accusations in cases of false claims of abuse, for example.

Current statutes outline the process whereby the State secures emergency custody of children. This process requires court intervention. Magistrates, then, ensure protection for the parents based on testimony. SB 82 allows the State to take control of children without this judicial intervention. As the H.E.S.S. Committee Chair, I ask that the Judiciary Committee address the legal aspects of this provision, and that the H.E.S.S. Committee be allowed subsequent hearings to discuss policy implications. Thank you.

SB

83

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

January 27, 2004

Honorable Fred Dyson, Chairman
Senate Health, Education and
Social Services Committee
Alaska State Capitol; Rm. 121
Juneau, AK 99801

Dear Senator Dyson,

The Department of Health and Social Services respectfully requests a hearing in the Senate Health, Education, and Social Services Committee on Senate Bill 83 "An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent fund dividends for certain children in the custody of the state; relating to child in need of aid proceedings and juvenile delinquency proceedings; and providing for an effective date."

This bill contains several distinct provisions relating to the child protection system.

A copy of Governor Murkowski's transmittal letter providing additional information on the bill and the associated fiscal note should be on file with the committee.

Your favorable consideration of this request will be appreciated.

Sincerely,


Sherry Hill, Special Assistant
Office of the Commissioner

cc: Kevin Jardell, Legislative Director
Office of the Governor

Marcie Kennai, Deputy Commissioner
Division of Health Care Services

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



3B83
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 25, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislatur
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding, relating to eligibility for Permanent Fund dividends for certain children in the custody of the state, and relating to child in need of aid proceedings under AS 47.10 and juvenile delinquency proceedings under AS 47.12.

The bill would add language to AS 25.23.180 to permit parents to relinquish their parental rights to a child while retaining certain privileges, such as ongoing communication or visitation with the child. This proposed amendment is in response to a recent Alaska Supreme Court decision holding that current law prohibits a parent from retaining any rights or privileges in a relinquishment. In some cases, ongoing contact with the parent is in the child's best interest, particularly in cases involving adoption by relatives or family acquaintances. Before the Supreme Court's decision, retention of privileges in relinquishments was a common practice. The proposed amendment would authorize retained privileges in appropriate cases.

The bill would add language to AS 43.23.005 to allow children who are placed temporarily by the Department of Health and Social Services (DHSS) outside of the state--in out-of-state treatment facilities, for example--to maintain their eligibility for Permanent Fund dividends. Some children require long-term treatment of a nature that is currently unavailable in this state; such children are at risk of losing their Permanent Fund dividend eligibility if they remain placed out of state for more than a year and are unable to return to the state to meet permanent fund dividend eligibility requirements. These Alaskan children should not lose the privilege of dividend eligibility as a result of being placed by the DHSS in a treatment program that is only available out-of-state.

The bill would add language to AS 47.10.020 to clarify that the court may issue any orders necessary to aid the DHSS in its investigation of an allegation of child abuse or neglect. Orders to aid DHSS are not prohibited by existing law;

COMMITTEE COPY

The Honorable Ben Stevens

January 25, 2005

Page 2

however, the proposed clarification would resolve any ambiguity regarding the ability of judges to issue such orders.

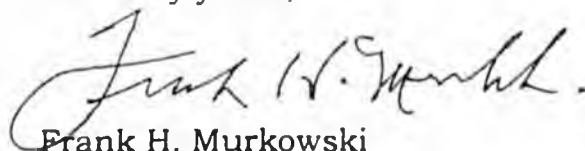
The bill also would add a new provision to permit courts to dispense with unnecessary and costly expert witness appearances in child in need of aid cases involving parents who cannot be located or identified. Under existing federal law, in order for a court to authorize the out-of-home placement of, or termination of parental rights to, an Indian child, the court must consider the testimony of a qualified expert witness. In cases involving a parent whose whereabouts remain unknown despite a diligent search, this federal law would appear to require that an expert witness be called solely to support the self-evident finding that placement of a child with the parent who cannot be found is likely to place the child at risk of harm. The proposed addition to AS 47.10 would permit a court to conclude, as a matter of law, that the testimony of a qualified expert witness would support a finding that placing the child with an absent parent would place a child at substantial risk of serious harm. This provision will satisfy federal legal requirements.

Finally, the bill would amend the definition of the term "mental health professional" for purposes of child in need of aid and juvenile delinquency proceedings. In order to authorize placement of children in secure residential psychiatric treatment facilities, courts must hear the testimony of a "mental health professional." The current definition of that term, contained in AS 47.30.915, excludes professionals who may be licensed to practice in other states, but not in Alaska. The testimony of such professionals is often critical in cases involving Alaska children who are already placed out of state by DHSS. Thus, expansion of the existing definition is necessary to ensure that Alaska children who are placed outside of this state receive the psychiatric treatment they need.

Each of the provisions of this bill constitutes a step toward making Alaska's children safer, healthier, and more secure, without unreasonably expanding governmental powers.

I urge your prompt and favorable action on this measure.

Sincerely yours,



Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 83
 (S) Publish Date: 1/28/05
 Dept. Affected: Health & Social Services
 RDU: Children's Services
 Component: Front Line Social Workers

Revision Date/Time (Note if correction):

Title: RELATING TO CHILDREN IN NEED OF AID

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR

Component No. 2005

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill addresses a number of different issues related to children in the custody of the department. The bill modifies various sections of Alaska Law by:

1. Allowing a parent to retain privileges of ongoing contact or communication with a child, when appropriate, after relinquishment of parental rights;
2. Maintaining permanent fund dividend eligibility for Alaskan children temporarily placed outside the state by the Department of Health and Social Services (DHSS)
3. Clarifying the court's authority to issue orders to aid the DHSS in its investigations of child abuse and neglect;

Prepared by: Marcia Kennai, Deputy Commissioner
 Division: Office of Children's Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-3191
 Date/Time 12/27/2004
 Date 12/29/2004

FISCAL NOTE
FN # 1

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 83

ANALYSIS CONTINUATION

4. Modifying the circumstances under which the DHSS may assume emergency custody of a child in order to better protect abused and neglected children;
5. Establishing a definition of "mental health professional" for purposes of child in need of aid and juvenile delinquency proceedings, and
6. Allowing the court to make findings regarding the testimony of expert witnesses in cases where parents cannot be located.

Passage of this bill will not have a fiscal impact on the department.

Sectional Analysis of SB 83/HB 114 (Child in need of aid omnibus)

(Prepared by the Department of Law, February 11, 2005)

HB 114/SB 83 would allow certain privileges to a parent when relinquishing parental rights; allow a child placed out of state while in custody of the Department of Health and Social Services not to be disqualified from receiving a permanent fund dividend on that basis alone; clarify the court's authority with regard to the investigation of abuse or neglect of a child; allow the court to rely on certain expert testimony in the case of an absentee parent, guardian, or custodian; and broaden the definition of "mental health professional."

I. Change to add parental privileges at relinquishment (AS 25.23.180) (Section 1):

Sec. 1: Section 1 provides that a parent may retain certain privileges with respect to a child when relinquishing parental rights, including the ability to have future contact, communication, and visitation with the child. A relinquishment cannot be invalidated, nor a termination order vacated, if a retained privilege has been withheld from the relinquishing parent or if a relinquishing parent fails to exercise a retained privilege.

II. Changes to statute regarding eligibility for a permanent fund dividend (AS 43.23.005) (Section 2):

Sec. 2: Section 2 allows the commissioner of the Department of Revenue to waive the permanent fund dividend's physical presence requirement for an individual who is in the custody of the Department of Health and Social Services and placed outside of the state for medical or behavioral treatment.

III. Changes regarding Department of Health and Social Services' investigation of abuse or neglect of a child (AS 47.10.020) (Sections 3 and 4):

Sec. 3: Section 3 amends the section regarding the investigation of the abuse or neglect of a child to describe when the court shall appoint a person or agency to make a preliminary inquiry and report for the information of the court, and to permit the court to issue orders necessary to help a person, agency, or the Department of Health and Social Services in its investigation or in making the preliminary inquiry and report to the court.

Sec. 4: Section 4 adds a new subsection that states that nothing in the section requires the Department of Health and Social Services to obtain court approval before investigating a report of harm or filing a petition. This places in statute current practice.

IV. Changes to allow a court to rely upon certain expert testimony (Section 5):

Sec. 5: Section 5 adds a new subsection to the chapter regarding children in need of aid (AS 47.10) to allow a court, in certain circumstances, to conclude that the testimony of a qualified expert witness would support a finding that continued custody of a child by an absent parent, guardian, or custodian is likely to result in serious damage to the child.

V. Changes to broaden the definition of “mental health professional” (Sections 6 and 7):

Sec. 6: Section 6 amends the definition of “mental health professional” in the chapter regarding children in need of aid (AS 47.10) to include a professional who is licensed to practice in a state other than Alaska when the Department of Health and Social Services has placed a child in that state.

Sec. 7: Section 7 amends the definition of “mental health professional” in the chapter regarding delinquent minors (AS 47.12) to include a professional who is licensed to practice in a state other than Alaska when the Department of Health and Social Services has placed a child in that state.

VI. Effective date (Section 8):

Sec. 8: Section 8 provides that the bill would take effect immediately.

False Claims of Sexual Abuse by Children Have Been Found to be Rare

Research has consistently shown that children rarely confabulate about having been abused and that false allegations of child sexual abuse are rare.

Jones and McGraw examined 576 consecutive referrals of child sexual abuse to the Denver Department of Social Services, and categorized the reports as either reliable or fictitious. **In only 1% of the total cases were children judged to have advanced a fictitious allegation.** Jones, D. P. H., and J. M. McGraw: *Reliable and Fictitious Accounts of Sexual Abuse to Children*. Journal of Interpersonal Violence 2: 27-45, 1987.

In a more recent study, investigators reviewed case notes of all child sexual abuse reports to the Denver Department of Social Services over 12 months. **Of the 551 cases reviewed, there were only 14 (2.5%) instances of erroneous concerns about abuse emanating from children.** These consisted of three cases of allegations made in collusion with a parent, three cases where an innocent event was misinterpreted as sexual abuse and eight cases (1.5%) of false allegations of sexual abuse. Oates, R. K., D.P. Jones, D. Denson, A. Sirotnak, N. Gary, and R.D. Krugman: *Erroneous Concerns about Child Sexual Abuse*. Child Abuse & Neglect 24:149-57, 2000.

Everson and Boat interviewed child protective service workers and found an estimated rate of false allegations that fell between 4.7 to 7.6% of all child and adolescent reports of sexual abuse. Everson, M.D., and B.W. Boat: *False Allegations of Sexual Abuse by Children and Adolescents*. Journal of the American Academy of Child and Adolescent Psychiatry 28: 230-5, 1989.

After reviewing the empirical literature concerning the frequency of false allegations of sexual abuse, Mikkelsen, Gutheil, and Emens concluded: **"False allegations of sexual abuse by children and adolescents are statistically uncommon, occurring at the rate of 2 to 10 percent of all cases."** Mikkelsen, E.J., T.G. Gutheil, and M Emens: *False Sexual-Abuse Allegations by Children and Adolescents: Contextual Factors and Clinical Subtypes*. American Journal of Psychotherapy 46: 556-70, 1992.

When four different states (Florida, Missouri, Vermont, and Virginia) reviewed Child Protective Service (CPS) records to determine the extent of false reporting, they found **intentionally false reports to comprised less than 1% of all unsubstantiated reports of child abuse** U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau. (1999). *Child Maltreatment 1997: Reports from the States to the National Child Abuse and Neglect Data System*. Washington, D.C.: Government Printing Office.

1997 NCANDS REPORT, Statistics on Intentionally False Reports

STATES	TOTAL REPORTS	UNSUBSTANTIATED	UNSUBSTANTIATED REPORTS THAT WERE JUDGED INTENTIONALLY FALSE
Florida	186,726	92,337	868 (5 per 1,000)

Missouri	80,185	49,490	460 (6 per 1,000 reports)
Vermont	2,309	1,257	18 (8 per 1,000 reports)
Virginia	51,227	37,282	457 (9 per 1,000 reports)
TOTAL	320,447	180,366	1,803 (6 per 1,000 reports)

Section D-9, adapted from Tables 3.1 and 3.2.

Children Tend to Understate Rather than Overstate the Extent of Any Abuse Experienced

Research with children whose sexual abuse has been proven has shown that children tend to minimize and deny abuse, not exaggerate or over-report such incidents.

In one study, researchers examined 28 cases in which children had tested positive for a sexually transmitted disease by forensically accepted procedures. To be included in the study, the children had to have presented for a physical problem with no prior disclosure or suspicion of sexual abuse. In addition, subjects were required to be over the age of three but prepubescent and were required to have adequate expressive language capabilities. Each of the 28 children was interviewed by a social worker trained in abuse disclosure techniques and use of anatomically correct dolls. **Only 12 of the 28 (43%) of the abused children interviewed gave any verbal confirmation of sexual contact.**

Lawson, L., & Chaffin, M. *False negatives in sexual abuse disclosure interviews*. Journal of Interpersonal Violence, 7(4), 532-42, 1992.

The "gold standard" study in this area comes from Sweden. This case involved a lone perpetrator who pled guilty after videotapes of his abuse of ten children were found by authorities. Because of these detailed videotape recordings, researchers knew exactly what happened to these children and were able to compare it to what the children told investigators when they interviewed. **The researchers found here was a significant tendency among the children to deny or minimize their experiences.** Some children simply did not want to disclose their experiences, some had difficulties remembering them, and one child lacked adequate concepts to understand and describe them. **Despite the fact that some of the interviews included leading questions, there were no false allegations.** Sjoberg, R. L., & Lindblad, F. *Limited disclosure of sexual abuse in children whose experiences were documented by videotape*. American Journal of Psychiatry, 159(2), 312-4, 2002.

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/26/05

FURTHER: Judiciary

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2.14.05

Health, Education and Social Services Committee considered

SENATE BILL NO. 83

SB 83 CHILD PROTECTION PROVISIONS

"An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent fund dividends for certain children in the custody of the state; relating to child in need of aid proceedings and juvenile delinquency proceedings; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	12/29			X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			✓	
			✓	
			✓	
			✓	
CHAIR:	/			

CORRECTION

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



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/26/05

FURTHER: Judiciary

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2.14.05

Health, Education and Social Services Committee considered

SENATE BILL NO. 83

SB 83 CHILD PROTECTION PROVISIONS

"An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent fund dividends for certain children in the custody of the state; relating to child in need of aid proceedings and juvenile delinquency proceedings; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	12/29			X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			✓	
			✓	
			✓	
			✓	
CHAIR:	✓			

SB

84

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

January 27, 2004

Honorable Fred Dyson, Chairman
Senate Health, Education and
Social Services Committee
Alaska State Capitol; Rm. 121
Juneau, AK 99801

Dear Senator Dyson,

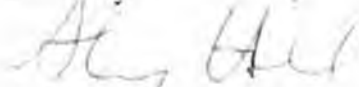
The Department of Health and Social Services respectfully requests a hearing in the Senate Health, Education, and Social Services Committee on Senate Bill 84 "An Act relating to the confidentiality of investigations, court hearings, and public agency records and information in child-in-need-of-aid matters and certain child protection matters; relating to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters; amending Rules 3 and 22, Alaska Child in Need of Aid Rules of Procedure; and providing for an effective date."

This bill would provide greater public access to child-in-need-of-aid (CINA) hearings and records and other information that has been historically closed to the public.

A copy of Governor Murkowski's transmittal letter providing additional information on the bill and the associated fiscal note should be on file with the committee. A sectional analysis of the bill will be provided to the committee prior to a hearing.

Your favorable consideration of this request will be appreciated.

Sincerely,



Sherry Hill, Special Assistant
Office of the Commissioner

cc: Kevin Jardell, Legislative Director
Office of the Governor

Marcie Kennai, Deputy Commissioner
Division of Health Care Services

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

5884
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

January 25, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will provide greater public access to child-in-need-of-aid (CINA) hearings and records and other information that has been historically closed to the public.

The issues surrounding public disclosure in CINA matters can quickly become complicated, but the goal of this bill is simple: shed more light on the child protection system and the system will improve. I believe that public support of the approach taken in the bill will grow when the tragic circumstances affecting so many young lives are more fully understood, along with the daily challenges faced by those who work so hard to protect children.

Concerns have been raised during the past several years about the state's confidentiality laws in CINA matters. These confidentiality laws were created to protect the privacy interests of children and their families in CINA matters, but they also have the practical effect of limiting public oversight and understanding of goals and activities of our child protection agencies. This bill seeks to address these issues by increasing public access in the following ways:

Court hearings in CINA cases that are now closed to the public would be open to the public, with limited exceptions. For example, the court may close a CINA hearing to the public when a parent or child has not had an opportunity to obtain legal representation; when a child would otherwise be emotionally damaged by an open hearing or would be inhibited in

COMMITTEE COPY

The Honorable Ben Stevens
January 25, 2005
Page 2

testifying; or when an open hearing would substantially compromise a criminal investigation.

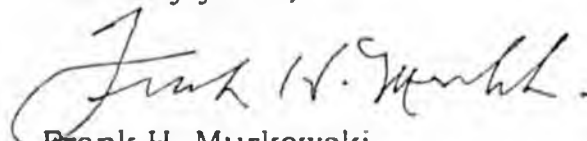
Information from state agency CINA records would be made available to the public in three situations: when a parent or guardian in a CINA case makes a public disclosure concerning the Department of Health and Social Services' involvement with the family; when the alleged perpetrator named in a report of harm under AS 47.17 has been charged with a crime arising from the harm; or when there is a report of harm under AS 47.17 that has resulted in a fatality or near fatality of a child. In such instances, the bill would allow the Department of Health and Social Services to release information about its response to the report of harm.

Other provisions of the bill would allow for the release of information to agencies or individuals when necessary to locate permanent placements for children in CINA cases, protect the safety of children, or enhance agency review of CINA cases. Also included is a provision for immunity for the state and municipalities, and their agencies, officers, and employees, relating to the disclosure or nondisclosure of information in CINA cases and certain child protection matters.

If enacted into law, the substantive changes in the bill would take effect July 1, 2005. The bill also would require a report to the public and the Legislature by December 1, 2006. The report will assess these new procedures in CINA cases and make recommendations to address any additional statutory changes necessary to improve our CINA confidentiality laws.

I urge your prompt and favorable action on this measure.

Sincerely yours,



Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 84
 (S) Publish Date: 1/26/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: Confidentiality of CINA Matters RDU: CIVIL
 Component: Human Services
 Sponsor: Possible Governor
 Requester: _____ Component No.: _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	37.4	37.4	37.4	37.4	37.4	37.4
Travel	0.1	0.1	0.1	0.1	0.1	0.1
Contractual	4.4	4.4	4.4	4.4	4.4	4.4
Supplies	0.8	0.8	0.8	0.8	0.8	0.8
Equipment	0.5	0.5	0.5	0.5	0.5	0.5
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	43.2	43.2	43.2	43.2	43.2	43.2

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	43.2	43.2	43.2	43.2	43.2	43.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	43.2	43.2	43.2	43.2	43.2	43.2

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time					
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)
 This bill changes state statutes that apply to the confidentiality of investigations, court hearings, and public agency information in child in need of aid (CINA) matters. Passage of this legislation will alter longstanding policies, practices and procedures of every agency and branch of government involved in child welfare protection. As a result it is anticipated that disputes will arise over the interpretation and implementation of this legislation. The additional operating costs reflected above are based on an initial estimate of 400 attorney hours per year to resolve such disputes.

Prepared by: Robert Meiners, Dep. Director Phone 465-5427
 Division: Administrative Services Date/Time 12/29/04 8:30 AM
 Approved by: Robert Meiners for Gregg D. Renkes, Attorney General Date 12/29/2004
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 84
 (S) Publish Date: 1/26/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: CONFIDENTIALITY OF CHILD-IN-NEED-OF-AID PROCEEDINGS AND RECORDS RDU Children's Services
 Component: Children's Services Management

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR Component No: 2666

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	84.1	84.1	84.1	84.1	84.1	84.1
Travel	1.0	1.0	1.0	1.0	1.0	1.0
Contractual						
Supplies	7.5					
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	92.6	85.1	85.1	85.1	85.1	85.1
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	45.3	41.7	41.7	41.7	41.7	41.7
1003 GF Match						
1004 GF	47.3	43.4	43.4	43.4	43.4	43.4
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	92.6	85.1	85.1	85.1	85.1	85.1

Estimate of any current year (FY2005) cost:

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will allow public access to Child-In-Need-Of-Aid (CINA) proceedings, allow the Department to publicly respond when parents of children in custody disclose confidential information about their case to media members, and it contains provisions for the sharing of information with the public in cases of child fatalities, or near-fatalities resulting from child abuse or child neglect.

Should this bill become law, the Department anticipates that the increase in public concerns and requests for information will necessitate an additional position within the Office of Children's Services (OCS) to assist the OCS in it's effort to respond to inquiries in a timely manner. This position would be an Associate Coordinator, R 18, under the current Program Coordinator for Community Relations. Estimated Federal revenue is based on the current cost allocation of the Child Welfare & Policy section under OCS Statewide Administration.

Prepared by: Marcia Kennel, Deputy Commissioner
 Division: Office of Children's Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone: 907-465-3397
 Date/Time: 01/07/2005
 Date: 01/10/2005

Sectional Analysis of HB 113/SB 84 (Confidentiality in Child-in-Need-of-Aid Proceedings)

*(Prepared by the Department of Law and the Department of Health and Social Services,
January 28, 2005)*

HB 113/SB 84 would do four major things: 1) open all child-in-need-of-aid (CINA) hearings to the public except in certain circumstances; they are presently closed to the public; 2) allow the Department of Health and Social Services to release the name and picture of a child in a CINA proceeding for the purposes of achieving permanency after all parental rights have been terminated; 3) expand the circumstances under which the Department of Health and Social Services is required to share confidential information in CINA proceedings; and 4) allow the Department of Health and Social Services to share confidential information in CINA proceedings with the public under three circumstances: if a parent has made a public disclosure, if an alleged perpetrator has been criminally charged with a crime relating to the abuse or neglect, and if a report of harm has resulted in the fatality or near fatality of a child.

I. Findings and Intent (Section 1):

Sec. 1: Section 1 sets out the findings and intent of the bill.

II. Changes to statutes governing CINA hearings to generally open hearings to the public (Sections 2 - 5):

Sec. 2: Section 2 amends the statute regarding hearings on petitions to find a child in need of aid (AS 47.10.070) to open these hearings to the public unless prohibited by state or federal law or court rule or order, and except as provided in sec. 3 of the bill.

Sec. 3: Section 3 adds new subsections to the statute regarding hearings on petitions to find a child in need of aid (AS 47.10.070). The new subsections do the following things:

- provide for three exceptions to sec. 2's requirement that CINA hearings be open to the public: the initial hearing; a hearing in which a parent, child, or party is present but remains unrepresented by legal counsel; and when the court closes part or all of a hearing for specified reasons;
- in CINA hearings open to the public, provide for in camera (in judge's chambers) presentation of evidence regarding the location of a parent, child, or other party who is a victim of domestic violence;
- guarantee access to closed CINA hearings for the time during which their testimony is being given for grandparents, foster parents, and out-of-home care providers;
- prohibit persons attending CINA hearings from disclosing information that would readily lead to the identification of a child who is the subject of the proceedings.

Sec. 4: Section 4 opens adjudication, permanency, and transfer hearings to the public with the exceptions noted in the first point under sec. 3, above (AS 47.10.080).

Sec. 5: Section 5 opens termination of parental rights trials and hearings to the public with the exceptions noted in the first point under sec. 3, above (AS 47.10.088).

III. Changes to the statute dealing with court records to limit publication of identification of child (AS 47.10.090) (Sections 6 - 7):

Sec. 6: Section 6 makes stylistic changes to a subsec. (c).

Sec. 7: Section 7 amends subsec. (d) by adding two exceptions to the ban on publicizing the name or picture of a child in connection with the child's status as a child in need of aid:

- when authorized by the sections that open certain hearings to the public (secs. 2 - 4, above);
- when it is needed to implement a plan for the permanent placement of a child after parental rights have been terminated.

IV. Changes to the statute governing disclosure of agency records (AS 47.10.093) (Sections 8 - 13):

Sec. 8: Section 8 adds new exceptions to the subsection making information and social records regarding a child subject to child protection privileged and not subject to disclosure; these new exceptions are those set out in sec. 13.

Sec. 9: Section 9 amends the subsection regarding an agency's disclosure of information regarding a CINA case to specify that confidential information must be disclosed to certain individuals and agencies. Section 9 also adds the following to the list of individuals or agencies entitled to receive information:

- a caregiver or entity responsible for the safety of a child, as is necessary to protect the safety of that child;
- a review panel established for the purpose of reviewing action taken by the department in a given case.

Sec. 10: Section 10 makes formatting changes to the subsection dealing with the disclosure of information regarding a case by a law enforcement agency.

Sec. 11: Section 11 changes the subsection dealing with the release of information regarding a child not subject to the jurisdiction of the court to specify that confidential information may be disclosed to a person with a legitimate interest, and to remove the requirement that the Department of Health and Social Services adopt regulations governing the release of information and identifying a sufficient legitimate interest.

Sec. 12: Section 12 changes the subsection regarding the disclosure of information between a law enforcement agency and school districts and private schools to specify that confidential information may be disclosed to school officials.

Sec. 13: Section 13 adds new subsections to do the following:

- permit the adoption of regulations under the section;
- provide for departmental disclosure to the public of confidential information when the parent or guardian of the subject child makes a public disclosure regarding the Department of Health and Social Services' involvement, the alleged perpetrator in a report of harm has been charged with a related crime, or a report of harm has resulted in a fatality or near fatality of a child;
- describe the type of information that the Department of Health and Social Services may disclose to the public, including information related to the determination regarding the validity of a report of harm and to the Department of Health and Social Services' activities arising from its investigation of a report of harm; the provision also permits the Department of Health and Social Services to exclude information related to a child's identification if it's in the best interest of the child or other children in the household, and if the information might interfere with a criminal investigation or proceeding or a defendant's right to a fair trial;
- prohibit the redisclosure of confidential information about a child or a child's family to an unauthorized person, with the exception of certain circumstances.

V. Addition of an immunity provision (Section 14):

Sec. 14: Section 14 adds a new section to the chapter dealing with children in need of aid to make the state; a municipality; or state or municipal agencies officers, employees, or agents immune from an action for damages based on the disclosure or nondisclosure of information under the chapter.

VI. Addition of a definition (Section 15):

Sec. 15: Section 15 adds a definition of "near fatality" to the chapter on children in need of aid.

VII. Changes to CINA court rules to generally open hearings to the public and regarding confidentiality (Sections 16 - 18):

Sec. 16: Section 16 amends CINA rule 3(c) to include a grandparent as someone entitled to be heard at a hearing, and to limit the presence of those entitled to be heard in hearing closed to the public if the court determines that the limitation is necessary for specified reasons.

Sec. 17: Section 17 rewrites the subsection dealing with public access to hearings to make it similar to the changes to AS 47.10.070 made in sections 2-3 of the bill. Specifically, section 17

- makes hearings open to the public unless prohibited by state or federal law or court rule or order, and except for the initial hearing after a petition that opens a CINA

case; a hearing in which a parent, child, or party is present but remains unrepresented by counsel; or when the court closes part of all of a hearing for specified reasons:

- requires the court to provide due process for a state or municipal agency or the prosecuting attorney assigned to the criminal investigation when there is a request to close part or all of a hearing because of interference with a criminal investigation or proceeding a defendant's right to a fair trial;
- limits the closure of a hearing under the first point to the extent necessary to prevent the harm specified;
- in hearings open to the public, provides for in camera presentation of evidence regarding the location of a parent, child, or other party who is a victim of domestic violence;
- requires the court to issue an order prohibiting persons attending an open hearing from disclosing any identifying information related to a child who is the subject of the proceeding, and allows sanctions for a violation of an order prohibiting disclosure;
- allows a party to a proceeding to ask the court to close part or all of a hearing to the public to avoid specified harms, and provides rules for notice of such a request.

Sec. 18: Section 18 amends the rule regarding confidentiality of a child's name or picture to allow disclosure of the information if needed to implement a permanency plan for a child after termination of the parental rights.

VIII. Applicability (Section 19):

Sec. 19: Section 19 provides that the bill applies to all proceedings, hearings, and information occurring or created after the effective date of the bill; files containing information or records created before the effective date retain whatever confidentiality status they had on the day before the effective date of sections 1 - 18 of the bill.

IX. Adoption of regulations in transition (Section 20):

Sec. 20: Section 20 permits the Department of Health and Social Services to proceed immediately to adopt regulations necessary to implement changes made by the bill.

X. Governor's Report (Section 21):

Sec. 21: Section 21 requires the governor to issue a report to the public and the legislature by December 1, 2006, regarding the implementation of the bill.

XI. Conditional effect and effective dates (Sections 22-24):

Sec. 22: Section 22 provides that sections 2 - 7 of the bill will only take effect if the sections regarding court rule changes (secs. 16 - 18) receive a two-thirds majority vote in each house of the legislature.

Sec. 23: Section 23 sets out that sec. 20 of the bill takes effect immediately.

Sec. 24: Section 24 sets out that all other sections of the bill take effect July 1, 2005.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 84
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to confidentiality... RDU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Governor
 Requester Senate HESS Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	54.3	54.3	54.3	54.3	54.3	54.3
Travel	2.4	2.4	2.4	2.4	2.4	2.4
Contractual	18.0	18.0	18.0	18.0	18.0	18.0
Supplies	1.3	1.3	1.3	1.3	1.3	1.3
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	82.7	76.7	76.7	76.7	76.7	76.7

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	82.7	76.7	76.7	76.7	76.7	76.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	82.7	76.7	159.6	159.6	159.6	159.6

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill changes statutes and court rules concerning confidentiality in child protective proceedings (CINA). CINA hearings will be presumptively open to the public, unless the court orders otherwise, based upon a motion to close it under certain circumstances enumerated in the bill. The Agency opens over 900 new child protective proceedings a year. It is anticipated that in at least half of the Agency's cases the attorney will be repeatedly moving to close hearings. This additional motion practice will also require service on a member of the public who has requested notice. It is further anticipated that disputes over interpretation and implementation of this legislation will occur. This increase in workload necessitates an increase in operating costs amounting to a half-time attorney position, factoring in support staff. The additional operating costs to address the increased workload are based on attorney and support staff hours in Anchorage, where the bulk of these cases are handled.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)334-4416
 Division: Public Defender Agency Date/Time 2/7/05 11:17 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 2/7/2005
 Agency: Department of Administration

Dear Senator Dyson and Health and Social Services Committee Members:

Thank you! Thank you!

Reference SB 84; Parent's must remain in the loop, and the insistence of you and other members of the committee was gratifying. Although OCS attempted to explain that the parent's attorney is responsible for keeping the parent informed, this is not generally the case. Most parents whose children are in the care of the state are represented by public defenders. I do not mean to disparage their services to their clients, but public defenders may have up to 100 cases annually (per Judge Steinkruger) and it is often next to impossible for them to remain a source of continued information for a parent. much less zealously defend. On many occasions repeated calls are made to counsel by the parent, and quite often these calls are not returned, with the attorney making contact on the day of the hearing. I respect Ms Kennai, but her explanation was not acceptable.

Section 2 states hearings would be open unless prohibited by state or federal statute, yet OCS continually uses federal law as a backstop to prevent the disclosure of information. At the same time Section 12 of SB 84 provides that law enforcement shall develop procedures to release information to school officials. Other states have found legal avenues to disclose information and have jury trials in termination cases. OCS recently used Part E, Section 672, Subchapter IV of the Social security act to prevent disclosure of information. It was also used to deny the legislature information in the Wasilla case, but I only read that names and addresses cannot be provided, not the info itself. It does seem that all information could have been provided without the names of the kids. That section of Federal law does speak to adoption of children, but it does seem it refers to the record of adoption and not that of abused children who have been adopted, nor does it seem to relate to a system of follow-up by the agency in subsidized adoptions. This section of Federal law seems to be the guiding factor in matters of disclosure.

SB 84 Section 3 again permits release of information unless prohibited by federal statute. (e) of that section can limit grandparents from proceedings under the same conditions the general public would be excluded. It is rare that a child testifies at hearings. Matter of fact, even children of acceptable age, are rarely permitted in the court room.

Section 6 seems to conflict with the reading of the new bill HB 11.

Section 7 is good, as presently children are being posted on the internet prior to termination of parental rights.

Section 9 of course gives everyone the right to information except the parent.

Section 13 permits all kinds of disclosure, and does not say unless prohibited by Federal or state law. It does appear therefore that the concern for federal law only pertains to situations where the OCS so determines that they do not wish to make matters public.


Section 16 again restricts grandparents at hearings

Section 17 restricts public access to just about every hearing conducted by the office of children services.

Much more could be said of this bill but I believe this is sufficient.

Over the past several years I had become increasingly frustrated and quite cynical of the entire OCS system, and also elected representatives who seemingly failed to understand the immense need to provide statute that would provide some accountability to that office. Over the past four years I have traveled to Juneau at my own expense in attempt to lobby for children and families who kids are in the care of the state. This year, due to the suffering of the Wasilla 5 the voices of children and families may finally be heard. Thank you.

In addition please look at SB 82. The term forensic interview has not been sufficiently explained. In conversation with the governor's office I was informed that it is just a term used by agencies nation-wide, and they understand what it means. SB 82 is a dangerous bill, any child can be removed from home school or other place on suspicion.


Betty Rollins
P. O. Box 55163
Fairbanks, Ak 9970
wayfarer@mosquitonet.com
Or
allkidscount@hotmail.com

Please ignore my email. The portion on section 2 was quite confusing, as I had added information in the wrong place

Betty Rollins
488-6614

P. O. Box 55163
North Pole, 99705
wayfarer@mosquionet.com
or allkidscount@hotmail.com

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 84
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: An Act relating to confidentiality... RDU: Legal and Advocacy Services
 Component: Office of Public Advocacy
 Sponsor: Governor
 Requester: Senate HESS Component No: 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	119.3	119.3	119.3	119.3	119.3	119.3
Travel	1.0	1.0	1.0	1.0	1.0	1.0
Contractual	35.0	35.0	35.0	35.0	35.0	35.0
Supplies	1.0	0.4	0.4	0.4	0.4	0.4
Equipment	5.0	0.5	0.5	0.5	0.5	0.5
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	161.3	156.2	156.2	156.2	156.2	156.2

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	161.3	156.2	156.2	156.2	156.2	156.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	161.3	156.2	156.2	156.2	156.2	156.2

Estimate of any current year (FY2005) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill changes statutes and court rules governing confidentiality in child protective proceedings (CINA) and some agency documents. CINA hearings will be presumptively open to the public, unless the court orders otherwise, based upon a motion to close it under certain circumstances enumerated in the bill. Approximately 1000 CINA cases are opened annually. OPA provides guardian ad litem representation in all CINA cases for the children, and also provides parental representation for the parents where the Public Defender Agency has a conflict. In essence, every CINA case is the equivalent of two cases to OPA if not more (in cases where there are more than two parents involved). Representation for both children and parents is provided by staff GALs and attorneys from separate OPA sections, as well as contractors in areas of the state where OPA has no staff or where OPA staff have a conflict. (Analysis continued on page two)

Prepared by: Joshua P. Fink, Director Phone: (907)269-3501
 Division: Office of Public Advocacy Date/Time: 2/9/05 12:39 PM
 Approved by: Michael Tibbles, Deputy Commissioner Date: 2/9/2005
 Agency: Department of Administration

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. SB 84

ANALYSIS CONTINUATION

It is anticipated that in a significant portion of OPA's cases the attorney representing either the child or parent will move to close the hearing. Prior to doing this, an investigation must be conducted up front to determine if an open hearing would be detrimental to the child's best interests. In addition, any motion practice regarding hearing closure must be served on any member of the public who has requested notice. It is further anticipated that disputes over interpretation and implementation of this legislation will occur. This increase in workload necessitates an increase in operating costs amounting to one full time attorney (a half-time attorney for child advocacy and a half-time attorney for parental advocacy), factoring in a third of personal services for a support staff member. The additional operating costs to address the increased workload are based on attorney and support staff hours in Anchorage, where the bulk of these cases are handled. Finally, contractors will bill additional hours for investigation, motion practice, and motion service regarding hearing closures.

Page 6, Line 26 after "department"
Add ", the governor, or the legislature"

Page 8, Line 9
Delete "may"
Add "shall"

Page 8, line 15-16
Delete "in accordance with"
Add "under"

Page 5, Line 13
Delete "and"

Page 5, Line 14, after "section,"
Add "and as provided to all parties in a child in need of aid proceeding in accordance with
court rules,"

Page 5, Line 22
Delete [(1) a guardian ad litem appointed by the court;]
Renumber accordingly

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/26/05

FURTHER: Judiciary
Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 2.11.05

Health, Education and Social Services Committee considered

SENATE BILL NO. 84

SB 84 CHILD PROTECTION CONFIDENTIALITY

"An Act relating to the confidentiality of investigations, court hearings, and public agency records and information in child-in-need-of-aid matters and certain child protection matters; relating to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters; amending Rules 3 and 22, Alaska Child in Need of Aid Rules of Procedure; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 84 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

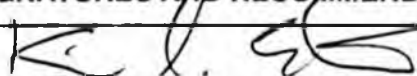
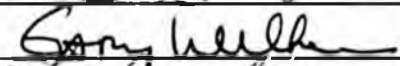
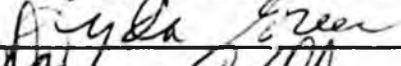
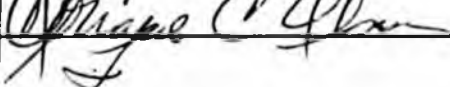

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ADM	2/7	✓			
ADM	2/9	✓			

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LAW	12/29	✓			1
HSS	1/10	✓			2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
	✓			
	✓			
	✓			
			✓	
CHAIR: 	✓			

SB

1 1 1

SENATOR KIM ELTON

MEMORANDUM

March 2, 2005

To: Senator Fred Dyson, Chair
Senate Health Education & Social Services Committee

From: Kim Elton 

Re: SB 111

I respectfully request the Senate HESS committee hear SB 111 at your earliest opportunity. The importance of education funding can't be overstated, and I hope the committee can send the bill on to Finance in time to have it heard alongside other bills that raise the base student allocation.

I have attached a sponsor statement and some supporting documents for your consideration.

SENATOR KIM ELTON

SB 111 – Increasing Education Funding

Sponsor Statement

SB 111 increases the base student allocation in the education funding formula to \$5,120. This is the funding level requested by statewide education advocates, and many of our largest school districts.

Over the years, the buying power of education funding in Alaska has not kept pace with the erosion of inflation. More recently, increases in the mandatory costs for school districts have prompted the legislature to provide funding for schools that outstrips inflation, but these mandatory costs have not allowed the extra money to go into the classrooms where they benefit children.

With ever-increasing demands on our schools from the state, the federal government, and the need to keep our children's education competitive with other nations, it is past time that we make a major investment in our classrooms. SB 111 will allow Alaska school districts to do more than meet their fixed cost increases. It will provide \$111.5 million that our educators can use to restore some of what they've had to cut over the years.

Whether these funds add teachers, tutors, special education aides, or textbooks, they will make a significant difference for Alaska children.

I respectfully ask for your support.

02/08/2005 TUE 11:27 FAX

001

**ANCHORAGE SCHOOL DISTRICT
ASDR 2004-2005-10**

**RESOLUTION IN SUPPORT OF INCREASED STATE FUNDING OF THE
ALASKA PUBLIC SCHOOL FUNDING PROGRAM**

WHEREAS, state funding for public schools is essential to maintain an education system that meets the needs of the children of Alaska; and

WHEREAS, Governor Frank Murkowski has recognized the importance of increasing public school funding by recommending that foundation formula funding for public schools be increased; and

WHEREAS, public school students will require adequate education programs in order to meet student achievement requirements imposed under both state and federal law; and

WHEREAS, adequate education programs will require a significant increase in state education funding to allow school districts to have the education resources to meet student needs; and

WHEREAS, school districts are experiencing increased fixed costs in their retirement systems and in other areas including fuel and electricity; and

WHEREAS, improvements to the public school system require a combination of strategies including improving instructional quality, decreasing class sizes, providing safe and efficient transportation, and providing adequate employee compensation; and

WHEREAS, providing increased education funding benefits all the public schools in the state and all residents of the state by developing our most precious natural resource - children, and providing a foundation for economic growth; and

WHEREAS, in order to prevent program cuts, to assure a maintenance level of public school funding, and to make modest reduction in class sizes, public school funding will need to be increased by \$112 million dollars for the next fiscal year;

BE IT RESOLVED, that the Anchorage School District strongly supports increasing state support for public schools; and

02/08/2005 TUE 11:27 FAX

002

BE IT FURTHER RESOLVED, that the Anchorage School District requests the Governor and legislature to increase the base student allocation in the foundation formula to \$5,120, which would provide an additional \$112 million dollars in state support for public schools.

DATED this 7th day of February 2005.

ANCHORAGE SCHOOL BOARD

Tim Steele

Tim Steele, President

Crystal Kennedy
Jake Metcalfe
Macon Roberts

John Steiner
Jeff Friedman
Mary Marks

Carol Comeau, Superintendent

**CITY AND BOROUGH OF JUNEAU
BOARD OF EDUCATION
RESOLUTION #05-05**

A RESOLUTION ON STUDENT FUNDING

WHEREAS, the Governor recognizes the challenge of creating a quality educational system and desires to continue to improve education; and

WHEREAS, the Governor said in the State of the State Address: "...increases in the retirement system costs and unforeseen energy expenses have put too great a burden on local governments in the short term," and he introduced a funding bill to increase the foundation funding by \$62 million resulting in a base allocation of \$4,880; and

WHEREAS, increasing student achievement and improving school performance (required by both the No Child Left Behind Act and Alaska statute and standards) will require schools to go beyond status quo operations and institute new or improved programs over the long term to address the specific unique needs of each student; and

WHEREAS, increasing student achievement and improving school performance require resources *beyond* those needed to simply address the increased costs of the retirement system and the unforeseen energy expenses; and

WHEREAS, the City and Borough of Juneau School District recognizes that improving student achievement will require at a minimum a combination of the following strategies and at a cost of \$5,120 base student allocation (BSA):

- reduce pupil teacher ratio
- support students to meet district, state and federal achievement expectations
- enhance graduation rate; and

WHEREAS, reaching a level of truly adequate foundation funding that will lower pupil teacher ratio, increase student achievement and improve school performance will require a reasonable and dependable trend of funding increases over a number of years; and

WHEREAS, the Association of Alaska School Boards (AASB) \$4,995 is a base that relates to a financial trend line and whereas we accept the positive trend line, the Juneau School District's financial needs for its students requires more than this base student allocation;

NOW THEREFORE BE IT RESOLVED, that the City and Borough of Juneau School District respectfully requests that the Legislature and the Governor approve additional funding beyond a base student allocation proposed by AASB in order to put children first in the State of Alaska.

ATTEST:


Mary Becker, President


Rhonda Bofort, Clerk

**KAKE CITY SCHOOL DISTRICT
RESOLUTION #021605-01**

Jesse

**RESOLUTION IN SUPPORT OF INCREASED STATE FUNDING FOR
STUDENTS ATTENDING ALASKA PUBLIC SCHOOL DISTRICTS**

WHEREAS, state funding for public schools is essential to maintain an education system that meets the needs of the children of Alaska; and

WHEREAS, Governor Frank Murkowski has recognized the importance of increasing public school funding by recommending that foundation formula funding for public schools be increased; and

WHEREAS, public school students will require adequate education programs in order to meet student achievement requirements imposed under both state and federal law; and

WHEREAS, adequate education programs will require a significant increase in state education funding to allow school districts to have the education resources to meet student needs; and

WHEREAS, school districts are experiencing increased fixed costs in their retirement systems and in other areas including fuel and electricity; and

WHEREAS, improvements to the public school system require a combination of strategies including improving instructional quality, developing curricular offerings to meet the needs of all students, providing adequate opportunities for participation in Fine Arts curriculum, and providing adequate employee compensation; and

WHEREAS, providing increased education funding benefits all the public schools in the state and all residents of the state by developing our most precious natural resource - children, and providing a foundation for economic growth; and

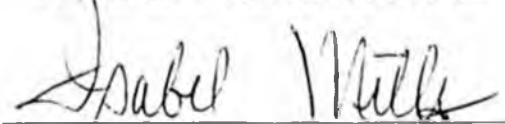
WHEREAS, in order to prevent program cuts, and to assure a maintenance level of public school funding, public school funding will need to be increased by \$112 million dollars for the next fiscal year;

BE IT RESOLVED, that the Kake City School District strongly supports increasing state support for public schools; and

BE IT FURTHER RESOLVED, that the Kake City School District requests the Governor and legislature to increase the base student allocation in the foundation formula to \$5,120, which would provide an additional \$112 million dollars in state support for public schools.

DATED this 16th day of February 2005.

KAKE CITY SCHOOL BOARD

A handwritten signature in cursive script, appearing to read "Isabel Mills", written over a horizontal line.

Isabel Mills, President

Stanley Adams, Vice President
Kimberly Moler, Secretary/Treasurer
Delbert Kadake, Member
Patti Handy, Member

Eric Gebhart, Superintendent

From: Jim Elliott [jelliott@crsd.k12.ak.us]
Sent: Wednesday, January 26, 2005 2:11 PM
To: Rep. Peggy Wilson
Subject: Shortfall

JAN 26 2005

Even if the Alaska Legislature increases the base student allocation to the level recommended by the Governor in FY-06 (from \$4,576 to \$4,880) to cover PERS/TRS increments and inflation, the Copper River School District will still have to reduce both its teacher and classified staff by at least two and three positions respectively, principally because of increases in salaries and anticipated increases in insurance premiums.

Alaska Kids Count!

February 7, 2005

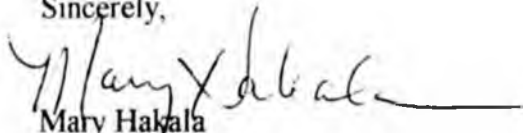
Representative Mark Neuman
Chair, House Special Committee on Education
State Capital
Juneau, Alaska 99801

Dear Representative Neuman,

Attached is a proposal from Alaska Kids Count, regarding increasing state funding for public schools. Alaska Kids Count is a nonpartisan network of parents, educators, and community members who are committed to making improvements to Alaska's schools.

We would request that when considering bills on education funding in the House Special Committee on Education that you also give serious consideration to the funding level suggested in this proposal. It is our hope that education funding will be significantly increased for the next fiscal year, in an effort to provide school districts with the financial resources to meet the needs of public school students of Alaska.

Sincerely,



Mary Hakala
Facilitator
Alaska Kids Count

Alaska Kids Count!



Who are we?

Alaska Kids Count! is a nonpartisan network of parents, educators and community members concerned about the quality of public education in Alaska and committed to making a positive contribution to improve Alaska's schools. It is a grassroots, volunteer effort.

The network's primary goal is to increase State funding to provide the resources needed to offer a high quality education to students in Alaska.

The network provides individuals with the tools and information needed to effectively voice concerns to state and local decision makers. Information is shared primarily through email. Participants are encouraged to attend legislative hearings, write letters to elected officials and newspapers, make phone calls and distribute information on education issues and pending legislation.

Our guiding principles:

- * Parents, voicing their individual and collective concerns, are a powerful and effective lobby.
- * Advocacy will be most effective if it is done collaboratively with parents, educators and organizations from across the state.
- * It is the State's constitutional obligation to provide a free K-12 public education. It is the Legislature's responsibility to determine the means of funding it.
- * To be effective, we must be persistent.

Alaska Kids Count! originated in January 2004 in response to parent concerns about diminishing resources and opportunities in Juneau's public schools. We have evolved into a statewide organization with contacts across the state, with our base of operation in Juneau.

To learn more about Alaska Kids Count! write to williwaw@earthlink.net or visit our web site at www.AlaskaKidsCount.org.

Alaska Kids Count! Steering Committee
Mary Hakala, Mike Sigler, Mike Ford and Andi Story
January 2005

Alaska Kids Count!

2005 Legislative Goals

** Increase Foundation funding:*

Decrease Class Size, to increase student-teacher contact time
and

Improve instructional quality

** Encourage parents' participation in the legislative process* and involvement in decisions impacting the quality of education in Alaska's public schools.

** Provide adequate funding for safe & efficient transportation of* students to and from school.

How can you become involved?

** Contact your Legislators.* To find out who your Legislators are, and how to contact them, go to the legislative web site, www.legis.state.ak.us, or call a Legislative Information Office (LIO), located in many of Alaska's cities. Juneau's LIO number is 907-465-4648.

** Become a participant in the Alaska Kids Count! network.* Email us at williwaw@earthlink.net. We will provide you with information and ideas on how to effectively voice your opinion.

Alaska Kids Count! Juneau

Our Goals for Foundation and Local Funding for Public Schools

Juneau's class sizes continue to grow and as a result the quality of our children's education continues to erode. For example, Harborview School has a kindergarten class with 26 children and Auke Bay School has a third grade class with 30 children this year. As parents, we see the need for smaller class sizes and know how fewer children in a classroom allow teachers more time for individual attention to meet each child's learning needs.

Alaska Kids Count supports reducing average class size to reach the Juneau School Board's published class size goals. These are modest ratios and do not reflect an ideal.

<u>Grades</u>	<u>Board Goal</u>	<u>Current Average Class Size</u>
K-2	20	K-5 combined at 25
3-5	25	
6-8	30	32
9-12	30	32

Alaska Kids Count also supports meeting specific instructional needs that affect the classroom such as special education and English as a Second Language, and matching requirements for independent Arts for Kids grant initiatives. These services directly impact the quality of education available to Juneau's students.

To meet these goals, Alaska Kids Count supports an increase in Foundation funding of approximately \$112 million statewide, \$50 million more than the Governor's proposed funding level. This would generate an increase of approximately \$1.8 million in state education funding for Juneau. This requires an estimated Base Student Allocation of \$5120.

The Governor's proposal is a \$62 million increase with \$38 million for retirement and \$24 million to compensate for inflation. Even assuming a \$900 thousand local contribution (to the "cap"), the Governor's proposal requires \$600 thousand in cuts to Juneau's schools. While Alaska Kids Count appreciates the Governor's proposal, we ask the Governor and the Legislature to do more for Alaskan students. Our example is specific to Juneau, but is representative of other school districts' needs.

SB

125

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

March 3, 2005

Honorable Fred Dyson, Chairman
Senate Health, Education and
Social Services Committee
Alaska State Capitol, Rm. 121
Juneau, AK 99801

Dear Senator Dyson,

The Department of Health and Social Services respectfully requests a hearing in the Senate Health, Education, and Social Services Committee on Senate Bill 125 "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, and rural health clinics; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

The proposed bill will streamline the department's licensing processes by consolidating virtually all of the licensing functions related to standards, enforcement, and appeal rights into a single chapter of the Alaska Statutes.

The Governor's transmittal letter providing additional information about the bill and a fiscal note should be on file with the committee. The department will provide the committee with a sectional analysis of the bill in the next several days.

Honorable Fred Dyson
Page 2

Your favorable consideration of this request will be appreciated.

Sincerely,


Sherry Hill
Special Assistant

cc: Kevin Jardell, Legislative Director
Office of the Governor

Dr. Richard Mandsager, Director
Division of Public Health

SB125

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



P.O. BOX 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 1, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to consolidating the licensing functions of the Department of Health and Social Services (DHSS).

Executive Order No. 108, which took effect in 2003, reorganized the DHSS in an effort to streamline functions and make services more efficient and cost effective. As part of that reorganization, DHSS is consolidating all of its licensing functions.

Currently, there are at least 12 different statutory schemes for the licensure of different entities by the DHSS. The complexity of the existing statutes and regulations and the absence of any clear rationale for the wide variation in standards for licensing, enforcement, and appeals has resulted in a very burdensome and bureaucratic system. The proposed bill will streamline the licensing process so that the functions are administered in a much more efficient and cost-effective manner by consolidating virtually all of the licensing functions related to standards, enforcement, and appeal rights into a single chapter of the Alaska Statutes.

In addition, the bill requires the DHSS to implement a single, consolidated background check process across all of its programs with the goal of reducing the risk of abuse and neglect of vulnerable clients.

In December 2004, the DHSS was awarded a \$4.9 million federal grant to conduct background checks for any new worker with direct patient care duties in nursing homes and other long-term care facilities, and to establish a comprehensive training program that will meet the unique needs of workers in

COMMITTEE COPY

The Honorable Ben Stevens
March 1, 2005
Page 2

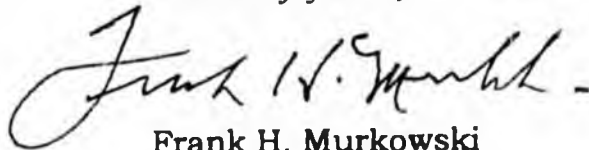
Alaska's long-term care system. This grant, in conjunction with the provisions of the legislation I am proposing today will:

- Improve monitoring and enforcement of life, health, and safety regulations for all DHSS long term-care programs.
- Extend background checks and fitness determinations to all staff serving vulnerable populations.
- Improve the overall safety and security of vulnerable individuals in state licensed and certified long-term care programs.

Finally, this bill contemplates that at the same time that the statutory changes would take effect, DHSS would have adopted regulations to implement these statutory changes. It is anticipated that the resulting regulations would further achieve the goal of efficiency and cost effectiveness.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

Sectional Analysis of SB 125 (Licensing)

(Prepared by the Department of Health and Social Services and the Department of Law, March 4, 2005)

SB 125 would centralize the licensing and administration of certain covered entities into a new chapter, and would centralize background check and registry functions for entities and individual service providers who are licensed or certified by the Department of Health and Social Services (DHSS) or who receive payments from the DHSS for providing services.

I. Addition of a new chapter to centralize licensing and administration of covered entities (Section 1):

Section 1 adds a new chapter regarding centralized licensing to title 47. The new sections do the following:

- require that certain entities obtain a license, and describe application requirements;
- provide for provisional and biennial licenses;
- provide for notice and appeal when a license is denied or made conditional;
- provide a construct for filing and investigation of complaints against an entity;
- give the DHSS a right of access to entities for inspection;
- require the DHSS to prepare a report following an investigation;
- provide for the immediate revocation or suspension of a license, for other enforcement actions, and for civil fines;
- provide for notice and appeal of enforcement actions;
- provide immunity to the DHSS, hospice volunteers, and entities in certain situations;
- provide for criminal penalties for violation of the licensing chapter;
- provide for the confidentiality of certain information and DHSS intradepartmental access to information.

II. Addition of a new article to centralize background checks and registry functions (Section 17):

Section 17 adds new background check and registry sections to the chapter dealing with the general administration of welfare, social services, and institutions (AS 47.05). The new sections are as follows:

- The new background check and registry sections are made applicable to any individual or entity that is required to be licensed or certified by the DHSS, or that is eligible to receive payments from the DHSS to provide for the health, safety, or welfare of persons.
- Individuals who will be associated with an entity as owner, fiduciary, operator, employee, or volunteer are required to provide fingerprints to the DHSS so that the DHSS can do a background check on the individual.
- An individual who has been charged with or convicted of a crime that is inconsistent with the standards for licensure or certification may not be associated with an entity or individual service provider as owner, operator, fiduciary, employee, or volunteer. If the entity associates with such an individual, the entity may not be issued or have renewed a license or certification, or may be ineligible to receive a payment from the DHSS to provide services.
- The DHSS must provide for a centralized registry that consists of the following information:
 - 1) judgments, orders, and adjudications finding that the relevant individual committed abuse, neglect, or exploitation of a child, senior citizen, or vulnerable adult;
 - 2) orders that a license or certification was denied, suspended, revoked, or conditioned.

III. Conforming amendments (Sections 2 – 16, 18 – 32)

Sections 2 – 16 and 18 – 32 set out conforming amendments and changes to reflect the bill's centralizing of licensing and administrative functions in AS 47.32. The subjects affected include:

- the definition of "hospital" in AS 09.65.095(b) (sec. 3) and AS 09.65.096(d) (sec. 4);

- the identification of a child care facility related to misconduct involving a weapon under AS 11.61.195(a) (sec. 5) and 11.61.220(a) (sec. 6);
- the conversion of a nursing facility to a nursing home under AS 18.07.031(b) (sec.7);
- the definition of "health care provider" under AS 18.23.070 (sec. 8) and AS 09.55.560 (sec. 2);
- facility compliance with health and safety laws and licensing requirements under AS 18.26.220 (sec. 9);
- the definition of "child adoption agency" in AS 18.50.950 (sec. 10);
- health maintenance organizations' requirement regarding regulation of hospitals under AS 21.86.030(c) (sec. 11);
- maintenance of records by a child placement agency under AS 25.23.185(c) (sec. 12);
- the definition of "license" under AS 25.27.244(s) (sec. 13);
- licensing fees under AS 37.05.146(c) (sec. 14);
- investigation of reports of abuse, neglect, or misappropriation of property under AS 47.05.010(15) (sec. 15) and AS 47.05.055(a) (sec. 16);
- the definition of "foster care" under AS 47.10.990 (sec. 18) and "secure residential treatment center" under AS 47.10.990 and AS 47.12.990 (secs. 19 - 20);
- a report of harm under AS 47.24.013(a) (sec. 21);
- minimum daily reimbursement rates under AS 47.24.017(d) (sec. 22);
- grants for child care facilities under AS 47.25.071(b) (sec. 23);
- the definition of "child care facility" and "day care facility" under AS 47.25.095 (secs. 24 - 25);
- the definition of "assisted living home" under AS 47.25.195(f) (sec. 26);

- the definition of "evaluation facility" under AS 47.30.915 (sec. 27) and AS 47.31.100 (sec. 28);
- licensing and supervision under AS 47.40.021 (sec. 29) and AS 47.40.110 (sec. 30);
- the definition of "long-term care facility" under AS 47.62.090 (sec. 31);
- AS 47.80.140 regarding licensing and certificates of need is repealed and readopted to reflect the centralizing of licensing in AS 47.32 (sec. 32).

IV. Repealers (Sections 33 - -39):

Section 33 repeals a reference to 47.35, which would be repealed by this bill.

Section 34 repeals certain statutes governing hospice and home care programs.

Section 35 repeals certain statutes governing hospitals and nursing facilities.

Section 36 repeals certain statutory provisions regarding the applicability of administrative adjudication.

Section 37 repeals certain statutes governing assisted living homes.

Section 38 repeals certain statutes governing child care facilities, child placement agencies, child treatment facilities, foster homes, and maternity homes.

Section 39 repeals certain statutory definitions related to alcohol treatment.

V. Applicability (Section 40):

Section 40 sets out the applicability of the bill to applications and requests depending on when submitted.

VI. Transition (Sections 41 - 43):

Section 41 sets out the transition rules for entities currently licensed or approved.

Section 42 sets out the transition rules for certain entities with pending application and other requests.

Section 43 allows the DHSS to proceed to adopt regulations under the bill.

VII. Effective date (Sections 44 – 46):

Section 44 sets out an immediate effective date for secs. 40, 42, and 43.

Section 45 sets out an effective date of July 1, 2006, for section 32.

Section 46 sets out an effective date of July 2, 2005, for the remainder of the bill.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 125
 (S) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the licensing, regulation, enforcement, and appeal rights of certain...facilities..." RDU CIVIL
 Component Human Services
 Sponsor _____ Component No. _____
 Requester Governor

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	9.3					
Travel	0.0					
Contractual	1.1					
Supplies	0.2					
Equipment	0.2					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	10.8	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.8					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	10.8	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would centralize almost all DHSS licensing statutes under a new chapter to AS 47. Currently, there are 12 different statutory schemes for the licensure of different entities by the DHSS. By centralizing these disparate procedures into a streamlined licensing process under a uniform statutory framework, the DHSS hopes to be able to administer these functions in a much more efficient and cost effective manner. The Department of Law does not anticipate a significant long-term fiscal impact from passage of this legislation; however, it is clear that significant revisions to the corresponding regulations will be required. It is estimated that approximately 100 attorney hours might be required in such an effort.

Prepared by: Kathryn Daughhete, Director Phone 465-5427
 Division: Administrative Services Date/Time 2/28/05 2:15 PM
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 2/28/2005
 Agency: Department of Law

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2
 Bill Version: SB 125
 (S) Publish Date: 3/2/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO LICENSING BY THE
DEPARTMENT OF HEALTH AND SOCIAL
SERVICES

RDU: Public Health

Component: Certification and Licensing

Sponsor: (RLS) BY REQUEST OF THE
GOVERNOR

Requester: GOVERNOR

Component No.: 245

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Because the purpose of this legislation is to streamline the licensing process to achieve those goals of efficiency and cost effectiveness by consolidating virtually all of the licensing functions related to standards, enforcement, and appeal rights in DHSS, no additional costs or staff resources within the department are anticipated.

Prepared by: Richard Mandsager, MD
 Division: Public Health
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-3139
 Date/Time: 02/17/2005
 Date: 02/28/2005



PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

SB 125, a Bill to Consolidate DHSS Licensing, Certification and Background Check Functions

Dr. Richard Mandsager, M.D.
Director, Alaska Department of Health and Social Services
Division of Public Health

3/14/2005

Why are we doing this? What's wrong with things the way they are?



- The existing statutory and regulatory environment is a complex patchwork, with holes, duplication and unnecessary variants.
 - Agencies which offer more than one type of care services must meet different requirements for licensing created by evolving program standards and historical licensing criteria.
 - These differences limit the flexibility of licensing staff to operate across different program types.
 - There is no compelling rationale to maintain these differences, and much benefit to be derived from eliminating them.
- Some provider types are not covered today, for either requirements of licensing or background check requirements, or both.
- Some individuals can currently pass a background screen, who shouldn't.
- Tracking of required care provider information has not been consistent.
- Existing requirements can also raise the costs to care provider applicants.

"Recruiting and hiring ... is an area we cannot afford even a single failure of the system." Matthew Jones, Executive Director, Assets Inc.

The existing regulation of long term care has not prevented instances of abuse and neglect.

- A supported living home provider was misappropriating funds from a resident. There is no requirement for the home to be licensed, and no background review had been conducted on the provider.
- An assisted living home attendant was fired for mistreatment, and the facts presented to law enforcement. No charges were filed and the case was dropped. This person remains eligible to work as a care provider.
- Three Alaska Nurse Aides were found by investigative agencies to be mistreating residents in a nine month period. Well after the mandatory reporting time period, two of these findings had not been entered into the registry.
 - One of the two involved physical violence.
- In another state, a person was involved in a stabbing in a convenience store. Months later, this person, recognized by someone who had been in the store, was found working as a long term care provider.
- Personal Care Attendants, who are typically listed by multiple employment agencies, must submit separate fingerprint-based background checks for each agency, at significant cost and duplication of effort.