

HOUSE BILL NO. 155

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE TUCK

Introduced: 3/29/21

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to court-appointed visitors and experts; relating to the powers and
2 duties of the office of public advocacy; relating to the powers and duties of the Alaska
3 Court System; and providing for an effective date."

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

⁵ * **Section 1.** AS 13.26.226(d) is repealed and reenacted to read:

9 * Sec. 2. AS 13.26.291(a) is amended to read:

12 * Sec. 3. AS 44.21.410(a) is amended to read:

13 (a) The office of public advocacy shall

(1) perform the duties of the public guardian under AS 13.26.700 -

1 13.26.750;

2 (2) [PROVIDE VISITORS AND EXPERTS IN GUARDIANSHIP
3 PROCEEDINGS UNDER AS 13.26.291;

4 (3)] provide guardian ad litem services to children in child protection
5 actions under AS 47.17.030(e) and to wards and respondents in guardianship
6 proceedings who will suffer financial hardship or become dependent upon a
7 government agency or a private person or agency if the services are not provided at
8 state expense under AS 13.26.041;

9 (3) [(4)] provide legal representation in cases involving judicial bypass
10 procedures for minors seeking abortions under AS 18.16.030, in guardianship
11 proceedings to respondents who are financially unable to employ attorneys under
12 AS 13.26.226(b), to indigent parties in cases involving child custody in which the
13 opposing party is represented by counsel provided by a public agency, and to indigent
14 parents or guardians of a minor respondent in a commitment proceeding concerning
15 the minor under AS 47.30.775;

16 (4) [(5)] provide legal representation and guardian ad litem services
17 under AS 25.24.310; in cases arising under AS 47.15 (Interstate Compact for
18 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
19 petitions for the termination of parental rights under AS 25.23.180(c)(2); in cases
20 involving petitions to remove the disabilities of a minor under AS 09.55.590; in
21 children's proceedings under AS 47.10.050(a) or under AS 47.12.090; in cases
22 involving appointments under AS 18.66.100(a) in petitions for protective orders on
23 behalf of a minor; and in cases involving indigent persons who are entitled to
24 representation under AS 18.85.100 and who cannot be represented by the public
25 defender agency because of a conflict of interests;

26 (5) [(6)] develop and coordinate a program to recruit, select, train,
27 assign, and supervise volunteer guardians ad litem from local communities to aid in
28 delivering services in cases in which the office of public advocacy is appointed as
29 guardian ad litem;

30 (6) [(7)] Provide guardian ad litem services in proceedings under
31 AS 12.45.046 or AS 18.15.355 - 18.15.395;

(7) [(8)] establish a fee schedule and collect fees for services provided by the office, except as provided in AS 18.85.120 or when imposition or collection of a fee is not in the public interest as defined under regulations adopted by the commissioner of administration;

(8) [(9)] provide [VISITORS AND] guardians ad litem in proceedings under AS 47.30.839;

(9) [(10)] provide legal representation to an indigent parent of a child with a disability; in this paragraph, "child with a disability" has the meaning given in AS 14.30.350;

(10) [(11)] investigate complaints and bring civil actions under AS 44.21.415(a) involving fraud committed against residents of the state who are 60 years of age or older; in this paragraph, "fraud" has the meaning given in AS 44.21.415.

* **Sec. 4.** AS 44.21.420(c) is amended to read:

(c) [THE COMMISSIONER OF ADMINISTRATION MAY CONTRACT FOR SERVICES OF COURT-APPOINTED VISITORS AND EXPERTS NEEDED TO PERFORM THE DUTIES SET OUT IN AS 44.21.410.] The commissioner may contract with attorneys to provide legal representation, and with other persons to provide guardian ad litem services, as needed to perform the duties set out in AS 44.21.410. The commissioner may determine the rate of compensation for contractual services, taking into account the time involved, the skill and experience required, and other pertinent factors.

* Sec. 5. AS 44.21.440(b) is amended to read:

(b) The office of public advocacy may not use improper pressure to influence the professional judgment of a person who is paid by the office of public advocacy to act as an attorney or [,] a guardian ad litem [, OR A VISITOR] for a guardianship or conservatorship established under AS 13.26.

* **Sec. 6.** AS 47.30.839(d) is amended to read:

(d) Upon the filing of a petition under (b) of this section, the court shall appoint [DIRECT THE OFFICE OF PUBLIC ADVOCACY TO PROVIDE] a visitor to assist the court in investigating the issue of whether the patient has the capacity to

1 give or withhold informed consent to the administration of psychotropic medication.
2 The visitor shall gather pertinent information and present it to the court in written or
3 oral form at the hearing. The information must include documentation of the
4 following:

5 (1) the patient's responses to a capacity assessment instrument
6 administered at the request of the visitor;

7 (2) any expressed wishes of the patient regarding medication,
8 including wishes that may have been expressed in a power of attorney, a living will, an
9 advance health care directive under AS 13.52, or oral statements of the patient,
10 including conversations with relatives and friends that are significant persons in the
11 patient's life as those conversations are remembered by the relatives and friends; oral
12 statements of the patient should be accompanied by a description of the circumstances
13 under which the patient made the statements, when possible.

14 * **Sec. 7.** AS 47.30.839 is amended by adding a new subsection to read:

15 (j) The Alaska Court System shall provide visitors in proceedings under this
16 section. The Alaska Court System may contract for services of court-appointed
17 visitors.

18 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 TRANSITION: VISITORS AND EXPERTS PROVIDED BY COURT SYSTEM. (a)
21 This Act applies to guardianship proceedings under AS 13.26.291 and proceedings under
22 AS 47.30.839 commenced on or after the effective date of this Act.

23 (b) Notwithstanding the provisions of this Act, the office of public advocacy shall
24 provide visitors and experts in guardianship proceedings under AS 13.26.291 and visitors in
25 proceedings under AS 47.30.839 that were commenced before the effective date of this Act,
26 in the manner provided by AS 13.26.226(d), 13.26.291(a), AS 44.21.410(a), 44.21.420(c),
27 44.21.440(b), and AS 47.30.839(d), as those subsections read on the day before the effective
28 date of this Act.

29 * **Sec. 9.** This Act takes effect July 1, 2021.