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Mischel
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CS FOR HOUSE BILL NO. 126()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GARA, Crawford, Kerttula, Gardner, Harris, Foster, Edgmon, Muñoz

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to continuing the secondary public education of a homeless student;**
2 **relating to the purpose of certain laws as they relate to children; relating to tuition**
3 **waivers, loans, and medical assistance for a child placed in out-of-home care by the**
4 **state; relating to foster care; relating to children in need of aid; and relating to out-of-**
5 **home care transition to independent living."**

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

7 *** Section 1.** AS 14.03 is amended by adding a new section to read:

8 **Sec. 14.03.096. Continuing the public education of a homeless student. (a)**

9 Except as provided in (b) and (d) of this section, the governing body of a school
10 district shall, consistent with the student's best interest, provide transportation services
11 and coordinate with the Department of Health and Social Services the continuation of
12 the public education of a homeless student in the student's school of origin for the
13 remainder of the current school year or, if the student is attending school for a summer

1 term, for the remainder of the summer term.

2 (b) The requirements in (a) of this section do not apply if the student moves to
3 a school district other than the school district in which the student's school of origin is
4 located.

5 (c) If a homeless student is transferred to a school other than the student's
6 school of origin, the school of origin shall provide a copy of the student's records to
7 the student's new school within seven school days after notification of the transfer.
8 The student's new school shall allow the student to attend school while awaiting the
9 transfer of records under this subsection.

10 (d) A school district is required to comply with this section only

11 (1) if the legislature appropriates funds for the purpose; and

12 (2) to the extent possible using funds appropriated for the purpose.

13 (e) A school district shall promote a homeless student's best interest by

14 (1) except when requested by the student or the student's legal
15 guardian, maintaining the enrollment of the homeless student in the student's school of
16 origin;

17 (2) providing a written explanation that includes an appeal procedure
18 for a decision that removes a homeless student from the student's school of origin; and

19 (3) considering the views of the homeless student and the student's
20 legal guardian.

21 (f) A school district shall designate a liaison between the school district and
22 the homeless student and the student's legal guardian to coordinate compliance with
23 this section.

24 (g) Nothing in this section is intended to supersede the applicable
25 requirements of 42 U.S.C. 11431 - 11435 (McKinney-Vento Homeless Education
26 Assistance Improvement Act of 2001) or to require the hiring of additional personnel.

27 (h) In this section,

28 (1) "homeless student" means a person under 19 years of age who is in
29 a state of homelessness for lack of a fixed, regular, and adequate nighttime residence
30 that is intended to serve as a permanent home; "homelessness" includes

31 (A) placement in an emergency shelter;

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(B) placement in out-of-home care as defined under AS 47.14.400;

(C) placement in transient housing; and

(D) the period in which a student is awaiting placement in out-of-home care as defined under AS 47.14.400;

(2) "school of origin" means the school in which the student was last enrolled.

* Sec. 2. AS 14.43 is amended by adding a new section to read:

Article 3A. Free Tuition for a Person Who Was in Out-of-Home Care.

Sec. 14.43.086. Free tuition and fees for a person who was in out-of-home care. (a) A person who enrolls as a student in good standing in a state-supported educational institution in the state is entitled to a waiver of tuition, fees, and room and board expenses if the person provides adequate proof that the person

(1) was in the custody of the state under AS 47.10 or AS 47.14;

(2) was placed in out-of-home care for a period of not less than six consecutive months on or after the person became 16 years of age;

(3) has applied for educational grants or scholarships that the person is otherwise eligible for as recommended by the educational institution;

(4) has applied for an available federal education loan; and

(5) is under 29 years of age.

(b) The amount of the waiver to which a person is entitled under this section is the amount of unmet need for tuition, room, and board expenses, as determined by the commission, after deducting funding for the school year from education loans, grants, or scholarships received by a person eligible for a waiver.

(c) The proceeds of an education loan, grant, or scholarship received by a person eligible for a waiver under this section must be paid to the educational institution to offset the person's tuition, fees, and room and board expenses.

(d) A state-supported educational institution in the state is required to provide a waiver under (a) of this section only if the legislature appropriates funds for the purpose of offsetting waivers under this section. If an appropriation is not sufficient to fully offset waivers for each person entitled to a waiver under (a) of this section, the

1 institution may offer full or partial waivers to eligible applicants as funding permits
2 and at the discretion of the institution.

3 * **Sec. 3.** AS 14.43.160 is amended by adding a new paragraph to read:

4 (7) "out-of-home care" has the meaning given in AS 47.14.400.

5 * **Sec. 4.** AS 36.30.850(b)(42) is amended to read:

6 (42) grants and contracts with qualified entities for services under
7 AS 47.18.330 for the out-of-home [FOSTER] care transition program;

8 * **Sec. 5.** AS 47.05.060 is amended to read:

9 **Sec. 47.05.060. Purpose and policy relating to children.** The purpose of this
10 title as it relates to children is to secure for each child the care and guidance,
11 preferably in the child's own home, as well as an education, that will serve the moral,
12 emotional, mental, intellectual, and physical welfare of the child and the best interests
13 of the community; to preserve and strengthen the child's family ties unless efforts to
14 preserve and strengthen the ties are likely to result in physical or emotional damage to
15 the child, removing the child from the custody of the parents only as a last resort when
16 the child's welfare or safety or the protection of the public cannot be adequately
17 safeguarded without removal; and, when the child is removed from the family, to
18 secure for the child adequate custody, education, and care and adequate planning for
19 permanent placement of the child.

20 * **Sec. 6.** AS 47.05.065 is amended to read:

21 **Sec. 47.05.065. Legislative findings related to children.** The legislature finds
22 that

23 (1) parents have the following rights and responsibilities relating to the
24 care and control of their child while the child is a minor:

25 (A) the responsibility to provide the child with food, clothing,
26 shelter, education, and medical care;

27 (B) the right and responsibility to protect, nurture, train, and
28 discipline the child, including the right to direct the child's medical care and
29 the right to exercise reasonable corporal discipline;

30 (C) the right to determine where and with whom the child shall
31 live;

1 (D) the right and responsibility to make decisions of legal or
2 financial significance concerning the child;

3 (E) the right to obtain representation for the child in legal
4 actions; and

5 (F) the responsibility to provide special safeguards and care,
6 including appropriate prenatal and postnatal protection for the child;

7 (2) it is the policy of the state to strengthen families and to protect
8 children from child abuse and neglect; the state recognizes that, in some cases,
9 protection of a child may require removal of the child from the child's home; however,

10 (A) except in those cases involving serious risk to a child's
11 health or safety, the Department of Health and Social Services should provide
12 time-limited family support services to the child and the child's family in order
13 to offer parents the opportunity to remedy parental conduct or conditions in the
14 home that placed the child at risk of harm so that a child may return home
15 safely and permanently; and

16 (B) the state also recognizes that when a child is removed from
17 the home, visitation between the child and the child's parents or guardian and
18 family members reduces the trauma for the child and enhances the likelihood
19 that the child will be able to return home; therefore, whenever a child is
20 removed from the parental home, the Department of Health and Social
21 Services should encourage frequent, regular, and reasonable visitation of the
22 child with the child's parent or guardian and family members;

23 (3) it is the policy of the state to recognize that, when a child is a ward
24 of the state, the child is entitled to reasonable safety, adequate care, and adequate
25 treatment and that the Department of Health and Social Services as legal custodian and
26 the child's guardian ad litem as guardian of the child's best interests and their agents
27 and assignees, each should make reasonable efforts to ensure that the child is provided
28 with reasonable safety, adequate care, and adequate treatment for the duration of time
29 that the child is a ward of the state;

30 (4) it is in the best interests of a child who has been removed from the
31 child's own home for the state to apply the following principles in resolving the

situation:

(A) the child should be placed in a safe, secure, and stable environment;

(B) the child should not be moved unnecessarily;

(C) a planning process should be followed to lead to permanent placement of the child;

(D) every effort should be made to encourage psychological attachment between the adult caregiver and the child;

(E) frequent, regular, and reasonable visitation with the parent or guardian and family members should be encouraged; [AND]

(F) parents and guardians must actively participate in family support services so as to facilitate the child's being able to remain in the home; when children are removed from the home, the parents and guardians must actively participate in family support services to make return of their children to the home possible; and

(G) the child should continue to attend the child's school of origin as provided under AS 14.03.096;

(5) numerous studies establish that

(A) children undergo a critical attachment process before the time they reach six years of age;

(B) a child who has not attached with an adult caregiver during this critical stage will suffer significant emotional damage that frequently leads to chronic psychological problems and antisocial behavior when the child reaches adolescence and adulthood; and

(C) it is important to provide for an expedited placement procedure to ensure that all children, especially those under the age of six years, who have been removed from their homes are placed in permanent homes expeditiously.

* Sec. 7. AS 47.07.020(b) is amended to read:

(b) In addition to the persons specified in (a) of this section, the following optional groups of persons for whom the state may claim federal financial

1 participation are eligible for medical assistance:

2 (1) persons eligible for but not receiving assistance under any plan of
3 the state approved under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act,
4 Supplemental Security Income) or a federal program designated as the successor to the
5 aid to families with dependent children program;

6 (2) persons in a general hospital, skilled nursing facility, or
7 intermediate care facility, who, if they left the facility, would be eligible for assistance
8 under one of the federal programs specified in (1) of this subsection;

9 (3) persons under 21 years of age who are under supervision of the
10 department, for whom maintenance is being paid in whole or in part from public
11 funds, and who are in out-of-home care [FOSTER HOMES] or private child-care
12 institutions;

13 (4) aged, blind, or disabled persons, who, because they do not meet
14 income and resources requirements, do not receive supplemental security income
15 under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act), and who do not
16 receive a mandatory state supplement, but who are eligible, or would be eligible if
17 they were not in a skilled nursing facility or intermediate care facility to receive an
18 optional state supplementary payment;

19 (5) persons under 21 years of age who are in an institution designated
20 as an intermediate care facility for the mentally retarded and who are financially
21 eligible as determined by the standards of the federal program designated as the
22 successor to the aid to families with dependent children program;

23 (6) persons in a medical or intermediate care facility whose income
24 while in the facility does not exceed \$1,656 a month but who would not be eligible for
25 an optional state supplementary payment if they left the hospital or other facility;

26 (7) persons under 21 years of age who are receiving active treatment in
27 a psychiatric hospital and who are financially eligible as determined by the standards
28 of the federal program designated as the successor to the aid to families with
29 dependent children program;

30 (8) persons under 21 years of age and not covered under (a) of this
31 section [,] who would be eligible for benefits under the federal program designated as

1 the successor to the aid to families with dependent children program, except that they
2 have the care and support of both their natural and adoptive parents;

3 (9) pregnant women not covered under (a) of this section and who
4 meet the income and resource requirements of the federal program designated as the
5 successor to the aid to families with dependent children program;

6 (10) persons under 21 years of age not covered under (a) of this section
7 who the department has determined cannot be placed for adoption without medical
8 assistance because of a special need for medical or rehabilitative care and who the
9 department has determined are hard-to-place children eligible for subsidy under
10 AS 25.23.190 - 25.23.210;

11 (11) persons who can be considered under 42 U.S.C. 1396a(e)(3) (Title
12 XIX, Social Security Act, Medical Assistance) to be individuals with respect to whom
13 a supplemental security income is being paid under 42 U.S.C. 1381 - 1383c (Title
14 XVI, Social Security Act) because they meet all of the following criteria:

15 (A) they are 18 years of age or younger and qualify as disabled
16 individuals under 42 U.S.C. 1382c(a) (Title XVI, Social Security Act);

17 (B) the department has determined that

18 (i) they require a level of care provided in a hospital,
19 nursing facility, or intermediate care facility for the mentally retarded;

20 (ii) it is appropriate to provide their care outside of an
21 institution; and

22 (iii) the estimated amount that would be spent for
23 medical assistance for their individual care outside an institution is not
24 greater than the estimated amount that would otherwise be expended
25 individually for medical assistance within an appropriate institution;

26 (C) if they were in a medical institution, they would be eligible
27 for medical assistance under other provisions of this chapter; and

28 (D) home and community-based services under a waiver
29 approved by the federal government are either not available to them under this
30 chapter or would be inappropriate for them;

31 (12) disabled persons, as described in 42 U.S.C.

1 1396a(a)(10)(A)(ii)(XIII), who are in families whose income, as determined under
 2 applicable federal regulations or guidelines, is less than 250 percent of the official
 3 poverty line applicable to a family of that size according to the United States
 4 Department of Health and Human Services, and who, but for earnings in excess of the
 5 limit established under 42 U.S.C. 1396d(q)(2)(B), would be considered to be
 6 individuals with respect to whom a supplemental security income is being paid under
 7 42 U.S.C. 1381 - 1383c; a person eligible for assistance under this paragraph who is
 8 not eligible under another provision of this section shall pay a premium or other cost-
 9 sharing charges according to a sliding fee scale that is based on income as established
 10 by the department in regulations;

11 (13) persons under 19 years of age who are not covered under (a) of
 12 this section and whose household income does not exceed 175 percent of the federal
 13 poverty line as defined by the United States Department of Health and Human
 14 Services and revised under 42 U.S.C. 9902(2);

15 (14) pregnant women who are not covered under (a) of this section and
 16 whose household income does not exceed 175 percent of the federal poverty line as
 17 defined by the United States Department of Health and Human Services and revised
 18 under 42 U.S.C. 9902(2);

19 (15) persons who have been diagnosed with breast or cervical cancer
 20 and who are eligible for coverage under 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII);

21 **(16) persons under 21 years of age who were in the custody of the**
 22 **department under AS 47.10 or AS 47.14 and who were placed in out-of-home**
 23 **care for a period of not less than six consecutive months on or after reaching 16**
 24 **years of age.**

25 * Sec. 8. AS 47.07.020 is amended by adding a new subsection to read:

26 (o) In this section, "out-of-home care" has the meaning given in AS 47.14.400.

27 * Sec. 9. AS 47.10.080(c) is amended to read:

28 (c) If the court finds that the child is a child in need of aid, the court shall

29 (1) order the child committed to the department for placement in an
 30 appropriate setting for a period of time not to exceed two years or in any event not to
 31 extend past the date the child becomes 19 years of age, except that the department or

1 the child's guardian ad litem may petition for and the court may grant in a hearing

2 (A) one-year extensions of commitment that do not extend
3 beyond the child's 19th birthday if the extension is in the best interests of the
4 child; and

5 (B) one-year extensions of commitment that do not extend
6 beyond the child's 21st birthday [AN ADDITIONAL ONE-YEAR PERIOD
7 OF STATE CUSTODY PAST 19 YEARS OF AGE] if the continued state
8 custody is in the best interests of the person and the person consents to it;

9 (2) order the child released to a parent, adult family member, or
10 guardian of the child or to another suitable person, and, in appropriate cases, order the
11 parent, adult family member, guardian, or other person to provide medical or other
12 care and treatment; if the court releases the child, it shall direct the department to
13 supervise the care and treatment given to the child, but the court may dispense with
14 the department's supervision if the court finds that the adult to whom the child is
15 released will adequately care for the child without supervision; the department's
16 supervision may not exceed two years or in any event extend past the date the child
17 reaches 19 years of age, except that the department or the child's guardian ad litem
18 may petition for and the court may grant in a hearing

19 (A) one-year extensions of supervision that do not extend
20 beyond the child's 19th birthday if the extensions are in the best interests of the
21 child; and

22 (B) an additional one-year period of supervision past 19 years
23 of age if the continued supervision is in the best interests of the person and the
24 person consents to it; or

25 (3) order, under the grounds specified in (o) of this section or
26 AS 47.10.088, the termination of parental rights and responsibilities of one or both
27 parents and commit the child to the custody of the department, and the department
28 shall report quarterly to the court on efforts being made to find a permanent placement
29 for the child.

30 * Sec. 10. AS 47.10.080 is amended by adding new subsections to read:

31 (v) A social worker employed by or under contract with the department shall,

1 not less than monthly, conduct visits with a child committed to the custody of the
 2 department under (c) of this section. The visits must be of sufficient substance and
 3 duration to address issues pertinent to case planning and service delivery to ensure the
 4 child's safety, permanency, and well-being. The majority of the visits conducted under
 5 this subsection must be at the location of the child's current placement. Nothing in this
 6 paragraph creates a private right of action against the department's employees or
 7 contractors. In this subsection, "visit" means face-to-face contact between social
 8 worker and child.

9 (w) The department shall

10 (1) notify the governing body of a school district and the principal of
 11 the school in which a student who is in the custody of the department is enrolled of a
 12 change in the placement of the student if the placement is outside of the attendance
 13 boundaries of the school; and

14 (2) assist the district in complying with the requirements of
 15 AS 14.03.096.

16 * Sec. 11. AS 47.10.990(3) is amended to read:

17 (3) "child" means a person who is

18 (A) under 18 years of age;

19 (B) [AND A PERSON] 19 years of age if that person was
 20 under 18 years of age at the time that a proceeding under this chapter was
 21 commenced; and

22 (C) under 21 years of age if that person is living in out-of-
 23 home care;

24 * Sec. 12. AS 47.10.990 is amended by adding a new paragraph to read:

25 (33) "out-of-home care" has the meaning given in AS 47.14.400.

26 * Sec. 13. AS 47.18.300(a) is amended to read:

27 (a) The department, in coordination with local public and private agencies,
 28 shall design, develop, and implement an out-of-home care [A FOSTER CARE]
 29 transition program to provide support and services to individuals who

30 (1) reach or have reached the age of 16 or older while in state custody
 31 and placed in out-of-home [FOSTER] care and have not yet reached 23 years of age;

1 and

2 (2) meet other eligibility criteria established by the department under
3 (b) of this section.

4 * Sec. 14. AS 47.18.310 is amended to read:

5 **Sec. 47.18.310. Program design.** The department, in coordination with local
6 public and private agencies, shall design the program as a continuation of the training
7 efforts related to independent living skills that were initiated for a child in state
8 custody who was placed in out-of-home care and [WHEN THE STATE FOSTER
9 CARE RECIPIENTS WERE] identified as being likely to remain in out-of-home
10 [STATE FOSTER] care until reaching not less than the age of 18. The program
11 design must require that program participants are directly involved in identifying the
12 program activities that will prepare them for independent living.

13 * Sec. 15. AS 47.18.320(a) is amended to read:

14 (a) Subject to the availability of an appropriation made for the purposes of
15 AS 47.18.300 - 47.18.390, the program may provide

16 (1) education and vocational training;

17 (2) assistance in obtaining basic education and training;

18 (3) career and employment services;

19 (4) training in basic life skills;

20 (5) housing and utility assistance;

21 (6) mentoring and counseling; and

22 (7) other appropriate services to complement the efforts of former state
23 foster care recipients or a child who was in state custody and placed in out-of-
24 home care to achieve self-sufficiency.

25 * Sec. 16. AS 47.18 is amended by adding a new section to read:

26 **Sec. 47.18.335. Monetary living expense stipend.** The department shall
27 provide to an individual eligible for services under the program who has left out-of-
28 home care a monthly stipend in an amount that is necessary to meet an individual's
29 living expenses as determined by the department and that is not more than the daily
30 rate provided to a licensed foster parent. The stipend shall continue for a period of not
31 more than one year and shall end before the individual is 23 years of age. The

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department may adopt regulations to implement this section.

* **Sec. 17.** AS 47.18.390(1) is amended to read:

(1) "program" means the out-of-home [FOSTER] care transition program authorized under AS 47.18.300 - 47.18.390;

* **Sec. 18.** AS 47.18.390(3) is repealed and reenacted to read:

(3) "out-of-home care" has the meaning given in AS 47.14.400.

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 126(EDC)

1 Page 11, following line 10:

2 Insert a new bill section to read:

3 **"* Sec. 18.** AS 47.32.160 is amended by adding a new subsection to read:

4 (c) A nonprofit organization that, and a person acting on behalf of the
5 organization who, engages in recruitment activities for foster homes that become
6 licensed under this chapter may not be held liable for the consequences of the
7 recruitment."