

(LIMITED RUN SHOWING ALL ADDITIONAL SPONSORSHIPS)

CS FOR HOUSE BILL NO. 164(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/21/01

Referred: Finance

Sponsor(s): REPRESENTATIVE DYSON, Coghill, Cissna, Wilson, Stevens, James, Rokeberg, Meyer, Green, McGuire

SENATORS Olson, Halford, Taylor, Ward, Pearce, Green, Cowdery, Davis, Lincoln

A BILL

FOR AN ACT ENTITLED

1 **"An Act prescribing the rights of grandparents related to child-in-need-of-aid hearings;**
2 **and amending Rules 3, 7, 10, 15, 17, and 19, Alaska Child in Need of Aid Rules of**
3 **Procedure."**

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

5 * **Section 1.** AS 47.10.030(b) is amended to read:

6 (b) In all cases under this chapter, the child, each parent, the tribe, foster
7 parent or other out-of-home care provider, guardian, and guardian ad litem of the child
8 **and, subject to (d) and (e) of this section, each grandparent of the child** shall be
9 given notice adequate to give actual notice of the proceedings and the possibility of
10 termination of parental rights and responsibilities, taking into account education and
11 language differences that are known or reasonably ascertainable by the petitioner or
12 the department. The notice of the hearing must contain all names by which the child
13 has been identified. Notice shall be given in the manner appropriate under rules of
14 civil procedure for the service of process in a civil action under Alaska law or in any

manner the court by order directs. Proof of the giving of the notice shall be filed with the court before the petition is heard. The court may also subpoena the parent of the child, or any other person whose testimony may be necessary at the hearing. A subpoena or other process may be served by a person authorized by law to make the service, and, where personal service cannot be made, the court may direct that service of process be in a manner appropriate under rules of civil procedure for the service of process in a civil action under Alaska law or in any manner the court directs.

* **Sec. 2.** AS 47.10.030 is amended by adding new subsections to read:

(d) Except as provided in (e) of this section, the department shall give advance written notice of all court hearings in a child's case to a grandparent of the child if

(1) the grandparent has contacted the department, provided evidence acceptable to the department of being the child's grandparent, requested notice about the hearings in the child's case, and provided the department with a current mailing address; or

(2) the department is aware that the child has a grandparent and the grandparent's mailing address is on file with the department.

(e) Notwithstanding (d) of this section, the department is not required to give advance notice to a grandparent about hearings in a child's case if the grandparent

(1) has been convicted of a crime in which the child was the victim; or

(2) is prohibited by a court order from having contact with the child.

* **Sec. 3.** AS 47.10.070(a) is amended to read:

(a) The court may conduct the hearing on the petition in an informal manner. The court shall give notice of the hearing to the department, and it may send a representative to the hearing. The court shall also transmit a copy of the petition to the department. The department shall send notice of the hearing to the persons for whom notice is required under AS 47.10.030(b) **and to each grandparent of the child entitled to notice under AS 47.10.030(d).** The department and the persons to whom the department must send notice of the hearing are entitled to be heard at the hearing. However, the court may limit the presence of the foster parent or other out-of-home care provider **and of any grandparent of the child** to the time during which the person's testimony is being given if it is (1) in the best interest of the child; or (2)

1 necessary to protect the privacy interests of the parties and will not be detrimental to
 2 the child. The public shall be excluded from the hearing, but the court, in its
 3 discretion, may permit individuals to attend a hearing if their attendance is compatible
 4 with the best interests of the child.

5 * **Sec. 4.** AS 47.10.080(f) is amended to read:

6 (f) A child found to be a child in need of aid is a ward of the state while
 7 committed to the department or the department has the power to supervise the child's
 8 actions. For an order made under (c)(1) of this section, the court shall hold a
 9 permanency hearing as required by (l) of this section and at least annually thereafter
 10 during the continuation of foster care to determine if continued placement, as it is
 11 being provided, is in the best interest of the child. The department, the child, and the
 12 child's parents, guardian, and guardian ad litem are entitled, when good cause is
 13 shown, to a permanency hearing on application. If the application is granted, the court
 14 shall afford these persons and their counsel reasonable advance notice and hold a
 15 permanency hearing where these persons and their counsel shall be afforded an
 16 opportunity to be heard. The persons entitled to notice under AS 47.10.030(b) **and**
 17 **the grandparents entitled to notice under AS 47.10.030(d)** are entitled to notice of a
 18 permanency hearing under this subsection and are also entitled to be heard at the
 19 hearing. The child shall be afforded the opportunity to be present and to be heard at
 20 the permanency hearing. After the permanency hearing, the court shall make the
 21 written findings that are required under (l) of this section. The court shall review an
 22 order made under (c)(2) of this section at least annually to determine if continued
 23 supervision, as it is being provided, is in the best interest of the child; this review is
 24 not considered to be a permanency hearing and is not governed by the provisions of
 25 this subsection that relate to permanency hearings.

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

28 DIRECT COURT RULE AMENDMENT. Rule 17(b), Alaska Child in Need of Aid
 29 Rules of Procedure is amended to read:

30 (b) **Statements.** The parties may offer evidence in aid of disposition at the
 31 hearing. The court shall also afford the parties, **a grandparent of the child who is in**

1 **attendance at the hearing,** and any foster parents or other out-of-home care providers
2 an opportunity to be heard.

3 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 COURT RULE CHANGES. (a) Section 5 of this Act, AS 47.10.030, as amended by
6 secs. 1 and 2 of this Act, AS 47.10.070(a), as amended by sec. 3 of this Act, and
7 AS 47.10.080(f), as amended by sec. 4 of this Act, have the effect of amending Rules 3, 7, 10,
8 15, 17, and 19, Alaska Child in Need of Aid Rules of Procedure, by requiring that
9 grandparents be given notice of and an opportunity to be heard at certain child-in-need-of-aid
10 proceedings.

11 (b) Sections 1 - 5 of this Act take effect only if this section receives the two-thirds
12 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.