

CS FOR HOUSE BILL NO. 127(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/5/97

Referred: Rules

Sponsor(s): HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the citizen review board and panels for permanency planning
2 for certain children in state custody; renaming the Citizens' Review Panel for
3 Permanency Planning as the Citizens' Foster Care Review Board; extending the
4 termination date of the Citizens' Foster Care Review Board; relating to disclosures
5 about certain minors; and providing for an effective date."

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

7 * **Section 1.** AS 44.66.010(17) is amended to read:

8 (17) Citizens' Foster Care Review Board [PANEL FOR
9 PERMANENCY PLANNING] under AS 47.14.200 -- June 30, 2000 [1997];

10 * **Sec. 2.** AS 47.10.080(m) is amended to read:

11 (m) Within 60 days after the date a child is removed from the child's home
12 by the department, the department shall notify the Citizens Foster Care Review
13 Board [APPROPRIATE LOCAL CITIZEN OUT-OF-HOME CARE REVIEW

1 PANEL] established in AS 47.14.200 [UNDER AS 47.14.220].

2 * **Sec. 3.** AS 47.10.080(n) is amended to read:

3 (n) Within 60 days after a court orders a child committed to the department
4 under (c) of this section and at a review under (f) or (l) of this section, the department
5 shall inform the parties about the local [CITIZEN OUT-OF-HOME CARE] review
6 panel established under AS 47.14.220.

7 * **Sec. 4.** AS 47.10.093(b) is amended to read:

8 (b) A state or municipal agency or employee may disclose information
9 regarding a case to

10 (1) a guardian ad litem appointed by the court or to a citizen review
11 board or local review panel for permanency planning authorized by AS 47.14.200 or
12 47.14.220;

13 (2) a person or an agency requested to provide consultation or services
14 for a minor who is subject to the jurisdiction of the court under AS 47.10.010;

15 (3) school officials as may be necessary to enable the school to
16 provide appropriate counseling and support services to the minor who is the
17 subject of the case, to protect the safety of the minor who is the subject of the
18 case, and to protect the safety of school students and staff;

19 (4) a governmental agency as may be necessary to obtain that agency's
20 assistance for the department in its investigation or to obtain physical custody of a
21 child; and

22 (5) a state or municipal law enforcement agency as may be necessary
23 for a specific investigation being conducted by that agency or for disclosures by that
24 agency to protect the public safety.

25 * **Sec. 5.** AS 47.10.142(g) is amended to read:

26 (g) Within 60 days after a court orders a child committed to the department
27 under this section, the department shall inform the parties about the local [CITIZEN
28 OUT-OF-HOME CARE] review panel established under AS 47.14.220.

29 * **Sec. 6.** AS 47.12.120(h) is amended to read:

30 (h) Within 60 days after the date a minor is removed from the minor's home
31 by the department, the department shall notify the Citizens' Foster Care Review

Board [APPROPRIATE LOCAL CITIZEN OUT-OF-HOME CARE REVIEW
PANEL] established in AS 47.14.200 [UNDER AS 47.14.220].

* **Sec. 7.** AS 47.12.310(b) is amended to read:

(b) A state or municipal agency or employee may disclose information
regarding a case to

(1) a guardian ad litem appointed by the court or to a citizen review
board or local review panel for permanency planning authorized by AS 47.14.200 -
47.14.220;

(2) a person or an agency requested to provide consultation or services
for a minor who is subject to the jurisdiction of the court under this chapter;

(3) school officials as may be necessary to protect the safety of **the
minor who is the subject of the case and the safety of** school students and staff;

(4) a governmental agency as may be necessary to obtain that agency's
assistance for the department in its investigation or to obtain physical custody of a
minor;

(5) a state or municipal law enforcement agency as may be necessary
for a specific investigation being conducted by that agency or for disclosures by that
agency to protect the public safety; and

(6) a victim as may be necessary to inform the victim about the
disposition or resolution of a case involving a minor.

* **Sec. 8.** AS 47.14.200(a) is repealed and reenacted to read:

(a) There is created in the Department of Administration the Citizens' Foster
Care Review Board. The board consists of nine public members appointed by the
governor from among persons who have training, experience, special knowledge, or
a demonstrated interest in the welfare of children. An out-of-home care provider or
a person employed by the court system, the Department of Health and Social Services,
the office of public advocacy, the Public Defender Agency, or the Department of Law
may not serve as a public member of the board. The governor shall appoint at least
one public member from each judicial district and shall appoint persons who are
reasonably representative of the various social, economic, racial, ethnic, and cultural
groups of the judicial district from which the members are appointed. The governor

may not appoint a person who has committed a felony or violated AS 11.51.130 or a law with substantially similar elements. The board also includes, as nonvoting members, the following state officials or their designees:

- (1) the commissioner of health and social services;
- (2) the director of the office of public advocacy.

* **Sec. 9.** AS 47.14.200(b) is amended to read:

(b) **Public** [APPOINTED] members of the **board** [STATE PANEL] serve at the pleasure of the governor for staggered terms of three years or until their successors are appointed. **These members may not serve more than two consecutive full terms, except that they may be reappointed to one or two additional consecutive full terms if they have been off the board for at least three years immediately preceding the reappointment.**

* **Sec. 10.** AS 47.14.200(c) is amended to read:

(c) The voting members of the **board** [STATE PANEL] shall elect from among the voting members a chair who shall serve for one year. **Five** [THREE] voting members of the **board** [STATE PANEL] constitute a quorum for the transaction of business. The **board** [PANEL] may not take official action without the affirmative vote of at least **five** [THREE] of its **voting** members.

* **Sec. 11.** AS 47.14.200(d) is amended to read:

(d) Members of the **board** [STATE PANEL] are entitled to reimbursement for actual expenses necessary to perform their duties as **board** [STATE PANEL] members. The reimbursement may not exceed the amount of per diem and **travel** expenses authorized for boards and commissions under AS 39.20.180.

* **Sec. 12.** AS 47.14.200(e) is amended to read:

(e) The **board** [STATE PANEL] shall meet **at least once** [TWICE] annually. Meetings **shall** [MAY] take place telephonically **whenever practical, and the board may meet by video conference.**

* **Sec. 13.** AS 47.14.200(f) is amended to read:

(f) The **board** [STATE PANEL] may employ a program coordinator who shall serve at the pleasure of the **board** [STATE PANEL]. The program coordinator shall employ staff as necessary to carry out the program coordinator's duties under **board**

[STATE PANEL] directives and to provide technical [CLERICAL] assistance to local review panels. The board may delegate duties to the program coordinator as necessary to assist the board in administering AS 47.14.200 - 47.14.299.

* Sec. 14. AS 47.14.210 is amended to read:

Sec. 47.14.210. Powers and duties [DUTIES] of the board [STATE PANEL]. (a) The board [STATE PANEL] shall

(1) hold regular and special meetings the board considers necessary;

(2) adopt regulations necessary [BY REGULATION ADOPT POLICIES AND PROCEDURES] to carry out its duties and to govern the performance of the duties of the local review panels established under AS 47.14.220; the regulations must include provisions that

(A) ensure that reviews conducted by local review panels meet the permanency planning review requirements for state compliance with 42 U.S.C. 671 - 675;

(B) set priorities to be followed by local review panels so that the cases that have the highest priority for review include cases that involve children who are likely to be in out-of-home placement for longer than 90 days, who have been in more than one out-of-home placement, whose siblings have been in more than one out-of-home placement, or whose parents' parental rights are likely to be terminated;

(C) establish procedures for expedited review of cases described in (B) of this paragraph; and

(D) establish the minimum number of local review panel members that must review a case and provide for the appointment of substitute local review panel members to participate in the review of a case when a member cannot be available due to an emergency;

(3) [(2)] ensure that the public members of the board and of the local review panels [PANEL MEMBERS] receive the [MINIMUM] level of training necessary to effectively carry out their duties, document in the board's records that the public members of local review panels have completed the training, and

ensure that a public member of a local review panel does not review a case until training has been received;

(4) [(3)] coordinate and review the activities of the local **review** panels;

(5) apply for private and federal grants and solicit contributions, gifts, and bequests to administer and implement AS 47.14.200 - 47.14.299;

(6) award grants or contracts from available money to local governmental or public or private nonprofit agencies to provide assistance to the state board and local review panels, to support their activities, and to carry out projects or studies related to improving the system for permanency needs of children in state foster care;

(7) review and make recommendations to the department about the department's regulations that govern out-of-home placement of children;

(8) use board staff to evaluate applicants for public members of local review panels and to provide training to local review panel members [AND MAKE RECOMMENDATIONS TO THE GOVERNOR ON APPOINTMENTS TO THE LOCAL PANELS];

(9) [(4)] prepare a report annually, by the 10th day of each regular session of the legislature, concerning the activities of the state **board** and **the** local **review** panels during the previous fiscal year; the report must include the number of cases reviewed by each local **review** panel, a description of the characteristics of the children whose cases were reviewed by the **local review** panels, the number of children reunited with their families, the number of children placed in other permanent homes, **systemic barriers to achieving permanency for children**, and recommendations and justifications for [PROGRAM] improvement **in services and programs provided to children**, including recommendations relating to state agencies and to the panel review system; the report may contain other information on the experience of the local **review** panels; the **board** [STATE PANEL] shall notify **the governor and** the legislature that the report is available.

* **Sec. 15.** AS 47.14.210 is amended by adding a new subsection to read:

(b) The board may by regulation require the department to provide to the board or to a local review panel aggregate data about the permanency planning system

and information about particular cases that is not required under AS 47.14.240. The department shall provide the data and information requested under these regulations.

* **Sec. 16.** AS 47.14.220 is amended to read:

Sec. 47.14.220. Appointment of local review panels. (a) **Except as provided in regulations adopted under AS 47.14.210(a)(2)(D) relating to substitutes, the board** [THE GOVERNOR] shall appoint for each judicial district **at least** [A LOCAL CITIZEN OUT-OF-HOME CARE REVIEW PANEL COMPOSED OF] five **persons available to serve as public members on local review panels** [AND TWO ALTERNATES] who are residents of the judicial district. **Public members** [MEMBERS] shall serve **staggered** [THREE-YEAR] terms **of three years or until their successors are** [EXCEPT THAT, WHEN A LOCAL PANEL IS INITIALLY] appointed. **Public members may not serve more than two consecutive full terms, except that, after being off all panels for at least three years, a member may be reappointed to one or two consecutive full terms** [, TWO MEMBERS SHALL BE APPOINTED FOR THREE-YEAR TERMS, TWO MEMBERS FOR TWO-YEAR TERMS, AND ONE MEMBER FOR A ONE-YEAR TERM. ALTERNATES SHALL BE APPOINTED TO THREE-YEAR TERMS].

(b) The **board** [GOVERNOR] shall appoint **as public members** [TO A LOCAL PANEL] persons who have training, experience, special knowledge, or a demonstrated interest in the welfare of children. An out-of-home care provider or a person employed by the court system, the department, the office of public advocacy, the Public Defender Agency, or the Department of Law may not serve as a **public** member [OR ALTERNATE MEMBER] of a local **review** panel. The **board** [GOVERNOR] may not appoint a person who has committed a felony or violated AS 11.51.130 or a law with substantially similar elements.

(c) The **public members** [COMPOSITION] of a local **review** panel must be reasonably representative of the various social, economic, racial, ethnic, and cultural groups of the district from which the members are appointed.

(d) If the **board** [STATE PANEL] determines that additional **public members** [LOCAL PANELS] are necessary in a judicial district because of excessively large or complex caseloads for review or because of the demographics of cases [, OR

1 DETERMINES THAT A LOCAL PANEL IS NOT NECESSARY BECAUSE OF A
 2 REDUCED CASELOAD], the board [GOVERNOR] may appoint additional public
 3 members [CREATE OR DISSOLVE A LOCAL PANEL. THE GOVERNOR MAY
 4 NOT REDUCE THE NUMBER OF PANELS IN A JUDICIAL DISTRICT TO
 5 FEWER THAN ONE]. Appointments of public members [TO A PANEL
 6 ESTABLISHED] under this subsection are governed by (a) - (c) of this section.
 7 **Public members serve on the panel at the pleasure of the board.**

8 (e) When a person is appointed to serve as a public member on a local
 9 review panel, the person shall swear or affirm in writing to keep confidential all
 10 information that comes before the local review panel except for nonidentifying case
 11 information included in a report to the state board [PANEL], information for reports
 12 required under AS 47.17, or as required by court order for good cause shown. A
 13 public member of a local review panel [MEMBER] may also share confidential
 14 information, on a need to know basis, with other members of the local review panel,
 15 the board, and the staff who serve the board or local review panel.

16 * **Sec. 17.** AS 47.14.230(a) is amended to read:

17 (a) A local review panel shall conduct its meetings in the judicial district in
 18 which its public members reside.

19 * **Sec. 18.** AS 47.14.230(d) is amended to read:

20 (d) A public member of a local review panel [MEMBER] is not eligible for
 21 travel expenses, per diem, or other expenses for service on the local review panel
 22 unless the state board [PANEL] requires the public [A LOCAL PANEL] member to
 23 travel to attend a meeting. If the state board [PANEL] requires a public member of
 24 a local review panel [MEMBER] to travel to attend a meeting, the public [LOCAL
 25 PANEL] member is entitled to reimbursement for actual expenses incurred by the
 26 member in attending the meeting, except that the reimbursement may not exceed the
 27 amount of per diem and travel expenses authorized for boards and commissions under
 28 AS 39.20.180.

29 * **Sec. 19.** AS 47.14.240 is amended to read:

30 **Sec. 47.14.240. Duties of local review panel.** (a) A local review panel shall
 31 review the case plan of each child in the custody of the department who is in a

1 placement other than the child's own home under AS 47.10.080(c)(1) or (3),
 2 47.10.142, [AS 47.12.120(b)(3),] or AS 47.14.100(c) if the case is under the
 3 jurisdiction of a court in the judicial district served by the **local review** panel. A local
 4 **review** panel may request a local **review** panel in another judicial district to conduct
 5 a review and make a report if that local **review** panel is more convenient for the child
 6 and other persons involved.

7 (b) The local **review** panel shall review a case as required under 42 U.S.C. 671
 8 - 675 (P.L. 96-272) within **90** [180] days after the day the child is initially removed
 9 from the child's home **for a case that is determined under the board's regulations**
 10 **to be of highest priority and within 180 days after the child is initially removed**
 11 **for other cases** and every six months **after the date of the first court hearing on the**
 12 **child's case** [THEREAFTER]. A court review may be substituted for a review
 13 required under this subsection if the court review meets the requirements of this
 14 subsection.

15 (c) At least 30 days before **the local review panel** [IT] begins a review, **or**
 16 **as soon as practicable**, the local **review** panel **or the state board** shall provide
 17 written notice to the following persons that a review will be conducted and that each
 18 person notified may participate in the review:

- 19 (1) the **appropriate employees of the** department;
- 20 (2) the child or the child's legal representative;
- 21 (3) the child's parents;
- 22 (4) the child's guardian;
- 23 (5) the child's guardian ad litem;
- 24 (6) the child's out-of-home care provider; and
- 25 (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child
 26 Welfare Act),

- 27 (A) the child's Indian custodian; and
- 28 (B) the designated representative of the child's Indian tribe if
 29 the tribe has intervened in the **court** case.

30 (d) In reviewing a case, the local **review** panel shall consider the case plan and
 31 any progress report of the department or the child's guardian ad litem, court records,

and other relevant information about the child and the child's family. The local panel shall [ALSO] provide to the following persons an opportunity to be interviewed by the **local review** panel in person or by telephone or to provide written material to the **local review** panel:

(1) the child whose case is being reviewed if the child is 10 years of age or older;

(2) the parents, custodians, or other relatives of the child;

(3) the child's out-of-home care provider;

(4) the child's guardian;

(5) the child's guardian ad litem;

(6) the case worker or social worker assigned to the case;

(7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act),

(A) the child's Indian custodian; and

(B) the designated representative of the child's Indian tribe if the tribe has intervened in the **court** case; and

(8) other persons with a close personal knowledge of the case.

(e) At the discretion of the child's guardian ad litem, if the child whose case is being reviewed is under 10 years of age, the child may be present at interviews conducted under (d) of this section and during review by the **local review** panel [,] or may be interviewed. At the child's request, a child who is 10 years of age or older shall be allowed to be present at interviews or a review of the local **review** panel that concerns the child's case unless the panel determines that for good cause the child's presence would be contrary to the best interests of the child or there is other good cause for denying the child's request.

(f) During a review under (a) of this section, a local **review** panel shall

(1) determine whether the child has a case plan designed to achieve placement in the least restrictive, most family-like setting available in close proximity to the home of the child's parents that is consistent with the best interests [OF] and special needs and circumstances of the child;

(2) evaluate the continuing necessity and appropriateness of the child's

1 placement, the extent of the compliance with the child's case plan, and the extent of
 2 progress that has been made toward mitigating the causes that necessitated placement
 3 away from the child's parents;

4 (3) ascertain the date by which it is likely the child may be returned
 5 to the home or placed for adoption or legal guardianship;

6 (4) determine whether there has been compliance with applicable
 7 provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act) and other applicable
 8 state and federal laws; and

9 (5) determine whether there has been compliance with court review
 10 requirements of AS 47.10.080(f) and (l) and [,] 47.10.142(h) [, AND AS 47.12.120(d)
 11 AND (g)].

12 (g) The local review panel shall within 15 working [30] days after reviewing
 13 the case submit a written report to the persons listed in (c) of this section.

14 (h) The report required under (g) of this section must make advisory
 15 recommendations based on the best interests of the child in accordance with
 16 AS 47.10.082 and must include notification of the right to request court review under
 17 AS 47.10.080(f) [OR AS 47.12.120(d), AS APPROPRIATE]. If the court has
 18 scheduled the case for review, the local review panel shall submit its report at least
 19 20 days before the hearing.

20 (i) The local review panel shall report to the state board [PANEL] information
 21 needed by the state board [PANEL] to prepare the report required under
 22 AS 47.14.210.

23 * **Sec. 20.** AS 47.14.250 is amended to read:

24 **Sec. 47.14.250. Cooperation with state board and local review panels.** The
 25 department, Department of Law, other departments of the executive branch, public
 26 defender, office of public advocacy, and court system shall cooperate with the state
 27 board [PANEL] and the local review panels to facilitate timely review of plans for
 28 children whose cases are reviewed under AS 47.14.200 - 47.14.299. The duty of
 29 executive branch agencies to cooperate under this section extends to the provision
 30 of addresses and other information necessary for a local panel to locate a person
 31 entitled to participate in a review under AS 47.14.240(c) or (d) if the addresses

and other information may be disclosed by the agency to the department for conducting its child protection and child placement duties under this title notwithstanding that providing the addresses or other information to entities other than the department may be prohibited under other laws relating to those agencies [THE JURISDICTION OF THE PANELS].

* **Sec. 21.** AS 47.14.250 is amended by adding a new subsection to read:

(b) The department shall cooperate and consult with the state board in the development of departmental information systems relating to children in out-of-home placements whose cases are subject to review by local review panels. The department shall develop information systems that ensure that aggregate data and individual case information needed by the state board and the local review panels for the performance of their duties are readily available from all of the department's information systems.

* **Sec. 22.** AS 47.14.260 is amended to read:

Sec. 47.14.260. Records: communications. (a) Notwithstanding AS 47.10.090 and [,] 47.10.093 [, AS 47.12.300, AND 47.12.310], at the request of a local review panel, the department, a municipality, the child's guardian ad litem, and the court shall furnish to the local review panel relevant records concerning a child and the child's family who are the subjects of a local panel review. At the conclusion of a review, all copies of records provided to a local review panel under this section shall be returned to the staff that serves the local review panel or to the agency from which the original copy was obtained unless the local review panel members need the copies to prepare the reports required under AS 47.14.240(g) - (i). Copies retained for preparation of the reports shall be returned to the staff that serves the local review panel or to the originating agency upon completion of the reports. Notwithstanding AS 44.62.310, records and reports of the local review panel, testimony before the local review panel, and deliberations of the local review panel are confidential under AS 47.10.090 [AND AS 47.12.310].

(b) A public member of a local review panel [MEMBER] may not reveal to another person, other than another member of the local review panel or the staff serving the local review panel, a communication made to the member while performing the member's duties under AS 47.14.200 - 47.14.299 except as required

under AS 47.17 or as required by court order for good cause shown. A **public member of a local review** panel [MEMBER] may share with the state **board** [PANEL] communications made during the **public** [LOCAL PANEL] member's performance of official duties if the **public** [LOCAL PANEL] member omits identifying information.

(c) A local **review** panel proceeding is not governed by AS 44.62.310.

* **Sec. 23.** AS 47.14.270 is repealed and reenacted to read:

Sec. 47.14.270. Court review of report. (a) The local review panel shall submit its final report to the court to aid the court in its review of temporary custody orders issued under AS 47.10.142 and in its dispositional hearings and reviews under AS 47.10.080 and 47.10.083.

(b) The court may refer to the board for assignment to a local review panel a case called for a special review under AS 47.10.080(f), as appropriate.

* **Sec. 24.** AS 47.14.280 is amended to read:

Sec. 47.14.280. Immunity [INDEMNIFICATION] **of board and panel members and staff.** A state **board** [PANEL] member, [AND] a local **review** panel member, **and a person serving as staff to the state board or a local review panel** shall be **immune from** [INDEMNIFIED BY THE STATE FOR] civil liability for a negligent act or omission of the **board or** panel member **or a person serving as staff to the board or a local review panel** that occurs in the performance of the member's **or person's** duties under AS 47.14.200 - 47.14.299 unless the civil liability results from the **board or** panel member's **or other person's gross negligence or** violation of

(1) AS 47.14.260(b); or

(2) the oath or affirmation required under AS 47.14.220(e).

* **Sec. 25.** AS 47.14.299 is amended to read:

Sec. 47.14.299. Definitions. In AS 47.14.200 - 47.14.299,

(1) **"board" means the state board;**

(2) **"department" means the Department of Health and Social Services;**

(3) [(1)] **"local review panel"** means a local [CITIZEN OUT-OF-

HOME CARE] review panel appointed under AS 47.14.220;

(4) [(2)] "out-of-home care provider" means an agency or person, other than the child's legal parents, with whom a child who is in the custody of the state under AS 47.10.080(c)(1) or (3), 47.10.142, [AS 47.12.120(b)(3),] or AS 47.14.100(c) is currently placed; in this paragraph, "agency or person" includes a foster parent, a relative other than a parent, a person who has petitioned for adoption of the child, and a residential child care facility;

(5) "panel" means a local review panel;

(6) [(3)] "state **board** [PANEL]" means the Citizens' **Foster Care** Review **Board** [PANEL FOR PERMANENCY PLANNING] established **in** [UNDER] AS 47.14.200.

* **Sec. 26.** AS 47.14.230(b) and 47.14.230(c) are repealed.

* **Sec. 27.** This Act takes effect immediately under AS 01.10.070(c).