

SENATE CS FOR CS FOR HOUSE BILL NO. 375(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/9/98

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to children-in-need-of-aid matters and proceedings; relating to
2 child abuse and neglect; relating to kidnapping and the crime of endangering
3 the welfare of a child; relating to sentencing for certain crimes; relating to the
4 state medical examiner and reviews of child fatalities; relating to modification
5 of child support orders by the child support enforcement agency; relating to
6 access to, confidentiality of, and release of certain information concerning
7 children, child abuse and neglect, and child fatalities; authorizing the Department
8 of Health and Social Services to enter into an interstate compact concerning
9 adoption and medical assistance for certain children with special needs; relating
10 to the review of cases involving certain children who are in the custody of the
11 state; authorizing the establishment of multidisciplinary child protection teams
12 and relating to their duties; relating to persons required to report suspected

1 child abuse or neglect; relating to foster care and foster parents; relating to
 2 access to certain criminal justice information and licensure of certain child care
 3 facilities; amending Rule 218, Alaska Rules of Appellate Procedure; and
 4 amending Rules 3, 7, 10, 15, 18, 19, and 22, Alaska Child in Need of Aid
 5 Rules."

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

7 * **Section 1.** INTENT AND PURPOSE OF ACT. (a) The intent of this Act is to protect
 8 children from abuse and neglect without prohibiting the use of reasonable methods of parental
 9 discipline or prescribing a particular method of parenting.

10 (b) The purpose of this Act is to

11 (1) provide the legal mechanisms by which the state can use its resources for
 12 the best interest of children in this state; and

13 (2) override the court decisions in the following cases:

14 (A) Matter of J.L.F., 912 P.2d 1255 (Alaska 1996), In Re S.A., 912
 15 P.2d 1235 (Alaska 1996), and F.T. v. State, 862 P.2d 857 (Alaska 1993), concerning
 16 the standards to adjudicate a child in need of aid when a parent or caregiver is willing,
 17 but unable, to provide essential care for a child;

18 (B) A.M. v. State, 891 P.2d 815 (Alaska 1995), and Nada A. v. State,
 19 660 P.2d 436 (Alaska App. 1983), concerning the standards to terminate parental rights
 20 when a parent is incarcerated;

21 (C) R.J.M. v. State, 946 P.2d 855 (Alaska 1997), concerning the type
 22 of neglect necessary to adjudicate a child in need of aid under AS 47.10.

23 * **Sec. 2.** AS 10.06.961(a) is amended to read:

24 (a) Notwithstanding AS 13.46.085 or the appointment of a guardian of the
 25 property of the child [MINOR] under AS 47.10.010 [AS 47.10.010(c)], when a child
 26 [MINOR] who is in the custody of this state under AS 47.10 or a minor who is in the
 27 custody of this state under AS 47.12 or of another state under a provision similar to
 28 AS 47.10 or AS 47.12 becomes entitled to receive dividends or other distributions
 29 resulting from the ownership of stock or a membership in a corporation organized

under this chapter and under 43 U.S.C. 1601 - 1641 (Alaska Native Claims Settlement Act), the corporation paying the dividends or making the other distributions shall retain the dividends and other distributions in an interest bearing account for the benefit of the child or minor during the state custody.

* **Sec. 3.** AS 11.41.300(a) is amended to read:

(a) A person commits the crime of kidnapping if

(1) the person restrains another with intent to

(A) hold the restrained person for ransom, reward, or other payment;

(B) use the restrained person as a shield or hostage;

(C) inflict physical injury upon or sexually assault the restrained person or place the restrained person or a third person in apprehension that any person will be subjected to serious physical injury or sexual assault;

(D) interfere with the performance of a governmental or political function;

(E) facilitate the commission of a felony or flight after commission of a felony; [OR]

(F) commit an offense in violation of AS 11.41.434 - 11.41.438 upon the restrained person or place the restrained person or a third person in apprehension that a person will be subject to an offense in violation of AS 11.41.434 - 11.41.438; or

(2) the person restrains another

(A) by secreting and holding the restrained person in a place where the restrained person is not likely to be found; or

(B) under circumstances which expose the restrained person to a substantial risk of serious physical injury.

* **Sec. 4.** AS 11.41.300(d) is amended to read:

(d) In a prosecution for kidnapping, it is an affirmative defense which reduces the crime to a class A felony that the defendant voluntarily caused the release of the victim alive in a safe place before arrest, or within 24 hours after arrest, without having caused serious physical injury to the victim and without having engaged in

conduct described in AS 11.41.410(a), [OR] 11.41.420, 11.41.434, or 11.41.436.

* **Sec. 5.** AS 11.51.100 is repealed and reenacted to read:

Sec. 11.51.100. Endangering the welfare of a child in the first degree. (a)

A person commits the crime of endangering the welfare of a child in the first degree if, being a parent, guardian, or other person legally charged with the care of a child under 16 years of age, the person

(1) intentionally deserts the child in a place under circumstances creating a substantial risk of physical injury to the child;

(2) leaves the child with another person who is not a parent, guardian, or lawful custodian of the child knowing that the person

(A) is registered or required to register as a sex offender under AS 12.63 or a law or ordinance in another jurisdiction with similar requirements;

(B) has been charged by complaint, information, or indictment with a violation of AS 11.41.410 - 11.41.455 or a law or ordinance in another jurisdiction with similar elements; or

(C) has been charged by complaint, information, or indictment with an attempt, solicitation, or conspiracy to commit a crime described in (B) of this paragraph; or

(3) leaves the child with another person knowing that the person has previously physically mistreated or had sexual contact with any child, and the other person causes physical injury or engages in sexual contact with the child.

(b) In this section, "physically mistreated" means

(1) having committed an act punishable under AS 11.41.100 - 11.41.250; or

(2) having applied force to a child that, under the circumstances in which it was applied, or considering the age or physical condition of the child, constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation because of the substantial and unjustifiable risk of

(A) death;

(B) serious or protracted disfigurement;

- 1 (C) protracted impairment of health;
- 2 (D) loss or impairment of the function of a body member or
- 3 organ;
- 4 (E) substantial skin bruising, burning, or other skin injury;
- 5 (F) internal bleeding or subdural hematoma;
- 6 (G) bone fracture; or
- 7 (H) prolonged or extreme pain, swelling, or injury to soft tissue

8 (c) Endangering the welfare of a child in the first degree under (a)(1) or (2) of
9 this section is a class C felony.

10 (d) Endangering the welfare of a child in the first degree under (a)(3) of this
11 section is a

- 12 (1) class B felony if the child dies;
- 13 (2) class C felony if the child suffers sexual contact, sexual penetration,
- 14 or serious physical injury; or
- 15 (3) class A misdemeanor if the child suffers physical injury.

16 * **Sec. 6.** AS 11.51 is amended by adding a new section to read:

17 **Sec. 11.51.110. Endangering the welfare of a child in the second degree.**

18 (a) A person commits the crime of endangering the welfare of a child in the second
19 degree if the person, while caring for a child under 10 years of age,

20 (1) causes or allows the child to enter or remain in a dwelling or vehicle
21 in which a controlled substance is stored in violation of AS 11.71; or

22 (2) is impaired by an intoxicant, whether or not prescribed for the
23 person under AS 17.30, and there is no third person who is at least 12 years of age and
24 not impaired by an intoxicant present to care for the child.

25 (b) In this section,

26 (1) "impaired" means that a person is unconscious or a person is
27 physically or mentally affected so that the person does not have the ability to care for
28 the basic safety or personal needs of a child with the caution characteristic of a sober
29 person of ordinary prudence;

30 (2) "intoxicant" has the meaning given in AS 47.10.990.

31 (c) Endangering the welfare of a child in the second degree is a violation.

* **Sec. 7.** AS 12.55.155(c)(23) is amended to read:

(23) the defendant is convicted of an offense specified in AS 11.71 and

(A) the offense involved the delivery of a controlled substance under circumstances manifesting an intent to distribute the substance as part of a commercial enterprise; or

(B) at the time of the conduct resulting in the conviction, the defendant was caring for or assisting in the care of a child under 10 years of age;

* **Sec. 8.** AS 12.65.005(a) is amended to read:

(a) Unless the person has reasonable grounds to believe that notice has already been given, a person who attends a death or has knowledge of a death, in addition to notifying a peace officer, shall immediately notify the state medical examiner when the death appears to have

(1) been caused by unknown or criminal means, during the commission of a crime, or by suicide, accident, or poisoning;

(2) occurred under suspicious or unusual circumstances or occurred suddenly when the decedent was in apparent good health;

(3) been unattended by a practicing physician or occurred less than 24 hours after the deceased was admitted to a medical facility;

(4) been associated with a diagnostic or therapeutic procedure;

(5) resulted from a disease that constitutes a threat to public health;

(6) been caused by a disease, injury, or toxic agent resulting from employment;

(7) occurred in a jail or corrections facility owned or operated by the state or a political subdivision of the state or in a facility for the placement of persons in the custody or under the supervision of the state;

(8) occurred in a foster home;

(9) occurred in a mental institution or mental health treatment facility;

[OR]

(10) occurred while the deceased was in the custody of, or was being taken into the custody of, the state or a political subdivision of the state or a public

officer or agent of the state or a political subdivision of the state; or

(11) been of a child under 18 years of age or under the legal custody of the Department of Health and Social Services, subject to the jurisdiction of AS 47.10 or AS 47.12, unless the

(A) child's death resulted from a natural disease process and was medically expected; and

(B) the child was under supervised medical care during the 24 hours before the death.

* **Sec. 9.** AS 12.65.015 is amended by adding a new subsection to read:

(e) The state medical examiner shall facilitate the formation of local, regional, or district child fatality review teams to assist local, regional, and district medical examiners in determining the cause and manner of deaths of children under 18 years of age. If a team is formed under this subsection, the team shall have the same access to information, confidentiality requirements, and immunity as provided to the state child fatality review team under AS 12.65.140. A meeting of a team formed under this subsection is closed to the public and not subject to the provisions of AS 44.62.310 and 44.62.312. A review by a local, regional, or district child fatality review team does not relieve the state child fatality review team under AS 12.65.120 of the responsibility for reviewing a death under AS 12.65.130. A person on a local, regional, or district child fatality review team is not eligible to receive compensation from the state for service on the team, but is eligible for travel expenses and per diem from the Department of Health and Social Services under AS 39.20.180. A person on a team formed under this subsection serves at the pleasure of the state medical examiner.

* **Sec. 10.** AS 12.65 is amended by adding new sections to read:

Sec. 12.65.120. State child fatality review team. (a) The state child fatality review team is established in the Department of Health and Social Services to assist the state medical examiner. The team is composed of

(1) the following persons, or that person's designee:

(A) the state medical examiner;

(B) a state prosecutor with experience in homicide prosecutions, appointed by the attorney general;

(C) an investigator with the state troopers who has experience in conducting investigations of homicide, child abuse, or child neglect, appointed by the commissioner of public safety;

(D) a social worker with the Department of Health and Social Services who has experience in conducting investigations of child abuse and neglect, appointed by the commissioner of health and social services;

(2) the following persons, or that person's designee, appointed by the commissioner of health and social services:

(A) a physician licensed under AS 08.64 who

(i) specializes in neonatology or perinatology; or

(ii) is certified by the American Board of Pediatrics;

(B) a municipal law enforcement officer with experience in conducting investigations of homicide, child abuse, or child neglect;

(C) other persons, including educators, whose experience and expertise would, as determined by the commissioner of health and social services, contribute to the effectiveness of the team.

(b) A team member is not eligible to receive compensation from the state for service on the team. A member appointed under (a)(2) of this section

(1) is eligible for travel expenses and per diem from the Department of Health and Social Services under AS 39.20.180; and

(2) serves at the pleasure of the commissioner of health and social services.

(c) In addition to the persons specified in (a) of this section, the team may invite a person to participate as a member of the team if the person has expertise that would be helpful to the team in a review of a specific death. A person participating under this subsection is eligible only for travel expenses and per diem from the Department of Health and Social Services under AS 39.20.180.

(d) The state medical examiner serves as chair of the team.

Sec. 12.65.130. State child fatality review team duties. (a) The state child fatality review team shall

(1) assist the state medical examiner in determining the cause and

1 manner of the deaths in this state of children under 18 years of age;

2 (2) unless the child's death is currently being investigated by a law
3 enforcement agency, review a report of a death of a child within 48 hours of the report
4 being received by the medical examiner if

5 (A) the death is of a child under 10 years of age;

6 (B) the deceased child, a sibling, or a member of the deceased
7 child's household

8 (i) is in the legal or physical custody of the state under
9 AS 47 or under similar custody of another state or political subdivision
10 of a state; or

11 (ii) has been the subject of a report of harm under
12 AS 47.17 or a child abuse or neglect investigation by the Department of
13 Health and Social Services or by a similar child protective service in this
14 or another state;

15 (C) a protective order under AS 18.66.100 or 18.66.110 has been
16 in effect during the previous year in which the petitioner or respondent was a
17 member of the deceased child's immediate family or household; or

18 (D) the child's death occurred in a mental health institution,
19 mental health treatment facility, foster home, or other residential or child care
20 facility, including a day care facility;

21 (3) review records concerning

22 (A) abuse or neglect of the deceased child or another child in the
23 deceased child's household;

24 (B) the criminal history or juvenile delinquency of a person who
25 may have caused the death of the child and of persons in the deceased child's
26 household; and

27 (C) a history of domestic violence involving a person who may
28 have caused the death of the child or involving persons in the deceased child's
29 household, including records in the central registry of protective orders under
30 AS 18.65.540;

31 (4) if insufficient information exists to adequately determine the cause

1 and manner of death, recommend to the state medical examiner that additional
 2 information be obtained under AS 12.65.020; and

3 (5) if a local, regional, or district child fatality review team has not been
 4 appointed under AS 12.65.015 or is not available, be available to provide
 5 recommendations, suggestions, and advice to state or municipal law enforcement or
 6 social service agencies in the investigation of deaths of children.

7 (b) The state child fatality review team may

8 (1) collect data and analyze and interpret information regarding deaths
 9 of children in this state;

10 (2) develop state and local data bases on deaths of children in this state;

11 (3) develop a model protocol for the investigation of deaths of children;

12 and

13 (4) periodically issue reports to the public containing statistical data and
 14 other information that does not violate federal or state law concerning confidentiality
 15 of the children and their families involved in the reviews; these reports may include

16 (A) identification of trends, patterns, and risk factors in deaths
 17 of the children;

18 (B) analyses of the incidence and causes of deaths of children
 19 in this state;

20 (C) recommendations for improving the coordination of
 21 government services and investigations; and

22 (D) recommendations for prevention of future deaths of children.

23 **Sec. 12.65.140. Records; information; meetings; confidentiality; immunity.**

24 (a) The state child fatality review team and its members shall have access to all
 25 information and records to which the state medical examiner has access under this
 26 chapter. The state child fatality review team and its members shall maintain the
 27 confidentiality of information and records concerning deaths under review, except when
 28 disclosures may be necessary to enable the team to carry out its duties under this
 29 chapter. However, the team and its members may not disclose a record that is
 30 confidential under federal or state law.

31 (b) Except for public reports issued by the team, records, and other information

collected by the team or a member of the team related to duties under this chapter are confidential and not subject to public disclosure under AS 09.25.100 - 09.25.220.

(c) Meetings of the state child fatality review team are closed to the public and are not subject to the provisions of AS 44.62.310 and 44.62.312.

(d) The determinations, conclusions, and recommendations of the state child fatality review team, or its members, are not admissible in a civil or criminal proceeding. Members may not be compelled to disclose their determinations, conclusions, recommendations, discussions, or thought processes through discovery or testimony in any civil or criminal proceeding. Records and information collected by the state child fatality review team are not subject to discovery or subpoena in connection with a civil or criminal proceeding.

(e) Notwithstanding (d) of this section, the state medical examiner may testify in a civil or criminal proceeding even though the death was reviewed by the state child fatality review team under AS 12.65.130 and information received from the review formed a basis of the state medical examiner's testimony.

(f) A person who is a member or an employee of, or who furnishes services to or advises, the state child fatality review team is not liable for damages or other relief in an action brought by reason of the performance of a duty, a function, or an activity of the review team.

* **Sec. 11.** AS 22.15.100 is amended to read:

Sec. 22.15.100. Functions and powers of district judge and magistrate.

Each district judge and magistrate has the power

(1) to issue writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, returnable before a judge of the superior court, and the same proceedings shall be had on the writ as if it had been granted by the superior court judge under the laws of the state in such cases;

(2) of a notary public;

(3) to solemnize marriages;

(4) to issue warrants of arrest, summons, and search warrants according to manner and procedure prescribed by law and the supreme court;

(5) to act as an examining judge or magistrate in preliminary

1 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the
2 release of defendants under bail;

3 (6) to act as a referee in matters and actions referred to the judge or
4 magistrate by the superior court, with all powers conferred upon referees by laws;

5 (7) of the superior court in all respects including but not limited to
6 contempts, attendance of witnesses, and bench warrants;

7 (8) to order the temporary detention of a minor, or take other action
8 authorized by law or rules of procedure, in cases arising under **AS 47.10** [AS 47.10.010
9 - 47.10.142] or AS 47.12, when the minor is in a condition or surrounding dangerous
10 or injurious to the welfare of the minor or others that requires immediate action; the
11 action may be continued in effect until reviewed by the superior court in accordance
12 with rules of procedure governing these cases;

13 (9) to issue a protective order in cases involving domestic violence as
14 provided in AS 18.66.100 - 18.66.180;

15 (10) to review an administrative revocation of a person's driver's license
16 or nonresident privilege to drive, and an administrative refusal to issue an original
17 license, when designated as a hearing officer by the commissioner of administration and
18 with the consent of the administrative director of the state court system;

19 (11) to establish the fact of death or inquire into the death of a person
20 in the manner prescribed under AS 09.55.020 - 09.55.069.

21 * **Sec. 12.** AS 25.23.180(c) is amended to read:

22 (c) The relationship of parent and child may be terminated by a court order
23 issued in connection with a proceeding under this chapter or a proceeding under
24 AS 47.10 **on the grounds** [:]

25 (1) [ON THE GROUNDS] specified in **AS 47.10.080(o) or 47.10.088**
26 [AS 47.10.080(c)(3)];

27 (2) [ON THE GROUNDS] that a parent who does not have custody is
28 unreasonably withholding consent to adoption, contrary to the best interest of the minor
29 child; or

30 (3) [ON GROUNDS] that the parent committed an act constituting
31 sexual assault or sexual abuse of a minor under the laws of this state or a comparable

offense under the laws of the state where the act occurred that resulted in conception of the child and that termination of the parental rights of the biological parent is in the best interests of the child.

* **Sec. 13.** AS 25.27 is amended by adding a new section to read:

Sec. 25.27.194. Processing time for modification of support orders. The agency shall use its best efforts to process modifications of support orders under AS 25.27.190 and 25.27.193 in a manner that will result in the same average processing time for modifications that increase obligors' responsibilities as for modifications that decrease obligors' responsibilities.

* **Sec. 14.** AS 47.05 is amended by adding a new section to read:

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

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

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

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

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

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

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

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

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

(A) except in those cases involving serious risk to a child's

1 health or safety, the Department of Health and Social Services should provide
2 time-limited family support services to the child and the child's family in order
3 to offer parents the opportunity to remedy parental conduct or conditions in the
4 home that placed the child at risk of harm so that a child may return home
5 safely and permanently; and

6 (B) the state also recognizes that when a child is removed from
7 the home, visitation between the child and the child's parents or guardian and
8 family members reduces the trauma for the child and enhances the likelihood
9 that the child will be able to return home; therefore, whenever a child is
10 removed from the parental home, the Department of Health and Social Services
11 should encourage frequent, regular, and reasonable visitation of the child with
12 the child's parent or guardian and family members;

13 (3) it is the policy of the state to recognize that, when a child is a ward
14 of the state, the child is entitled to reasonable safety, adequate care, and adequate
15 treatment and that the Department of Health and Social Services as legal custodian and
16 the child's guardian ad litem as guardian of the child's best interests and their agents
17 and assignees, each should make reasonable efforts to ensure that the child is provided
18 with reasonable safety, adequate care, and adequate treatment for the duration of time
19 that the child is a ward of the state;

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

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

25 (B) the child should not be moved unnecessarily;

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

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

30 (E) frequent, regular, and reasonable visitation with the parent
31 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;

(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. 15.** AS 47.05 is amended by adding new sections to read:

Sec. 47.05.090. Authorization of the Interstate Compact on Adoption and Medical Assistance. (a) The Department of Health and Social Services may, on behalf of the state, enter into the Interstate Compact on Adoption and Medical Assistance and supplementary agreements with agencies of other states for the provision of adoption and medical assistance under AS 47.07 and other provisions of this title for eligible children with special needs.

(b) In this section, "state" includes a state, territory, possession, or commonwealth of the United States.

Sec. 47.05.100. Monthly reports concerning children. By the 15th day of each month, the Department of Health and Social Services shall provide a report summarizing child protection activities carried out during the previous calendar month and the status of children committed to the department's custody, including information on the number and type of reports of child abuse and neglect received, the outcome of investigations completed, the number of placements of children committed to the

department's custody, and the number of foster homes licensed. The report shall be made accessible to the public through the Internet.

* **Sec. 16.** AS 47.10 is amended by adding a new section to read:

Sec. 47.10.005. Construction. The provisions of this chapter shall be liberally construed to the end that a child coming within the jurisdiction of the court under this chapter may receive the care, guidance, treatment, and control that will promote the child's welfare.

* **Sec. 17.** AS 47.10.010 is repealed and reenacted to read:

Sec. 47.10.010. Jurisdiction. (a) Proceedings relating to a child under 18 years of age residing or found in the state are governed by this chapter when the child is alleged to be or may be determined by the court to be a child in need of aid under AS 47.10.011.

(b) In a controversy concerning custody of a child under this chapter, the court may appoint a guardian of the person and property of a child, may appoint an attorney to represent the legal interests of the child, and may order support from either or both parents. Custody of a child may be given to the department and payment of support money to the department may be ordered by a court.

* **Sec. 18.** AS 47.10 is amended by adding new sections to read:

Sec. 47.10.011. Children in need of aid. Subject to AS 47.10.019, the court may find a child to be a child in need of aid if it finds by a preponderance of the evidence that the child has been subjected to any of the following:

(1) a parent or guardian has abandoned the child as described in AS 47.10.013, and the other parent is absent or has committed conduct or created conditions that cause the child to be a child in need of aid under this chapter;

(2) a parent, guardian, or custodian is incarcerated, the other parent is absent or has committed conduct or created conditions that cause the child to be a child in need of aid under this chapter, and the incarcerated parent has not made adequate arrangements for the child;

(3) a custodian with whom the child has been left is unwilling or unable to provide care, supervision, or support for the child, and the whereabouts of the parent or guardian is unknown;

1 (4) the child is in need of medical treatment to cure, alleviate, or
 2 prevent substantial physical harm or is in need of treatment for mental injury and the
 3 child's parent, guardian, or custodian has knowingly failed to provide the treatment;

4 (5) the child is habitually absent from home or refuses to accept
 5 available care and the child's conduct places the child at substantial risk of physical or
 6 mental injury;

7 (6) the child has suffered substantial physical harm, or there is a
 8 substantial risk that the child will suffer substantial physical harm, as a result of
 9 conduct by or conditions created by the child's parent, guardian, or custodian or by the
 10 failure of the parent, guardian, or custodian to supervise the child adequately;

11 (7) the child has suffered sexual abuse, or there is a substantial risk that
 12 the child will suffer sexual abuse, as a result of conduct by or conditions created by the
 13 child's parent, guardian, or custodian or by the failure of the parent, guardian, or
 14 custodian to adequately supervise the child; if a parent, guardian, or custodian has
 15 actual notice that a person has been convicted of a sex offense against a minor within
 16 the past 15 years, is registered or required to register as a sex offender under AS 12.63,
 17 or is under investigation for a sex offense against a minor, and the parent, guardian, or
 18 custodian subsequently allows a child to be left with that person, this conduct
 19 constitutes prima facie evidence that the child is at substantial risk of being sexually
 20 abused;

21 (8) conduct by or conditions created by the parent, guardian, or
 22 custodian have

23 (A) resulted in mental injury to the child; or

24 (B) placed the child at substantial risk of mental injury as a
 25 result of

26 (i) a pattern of rejecting, terrorizing, ignoring, isolating,
 27 or corrupting behavior that would, if continued, result in mental injury;
 28 or

29 (ii) exposure to conduct by a household member, as
 30 defined in AS 18.66.990, against another household member that is a
 31 crime under AS 11.41.100 - 11.41.220, 11.41.230(a)(1) or (2), or

1 11.41.410 - 11.41.432, an offense under a law or ordinance of another
 2 jurisdiction having elements similar to a crime under AS 11.41.100 -
 3 11.41.220, 11.41.230(a)(1) or (2), or 11.41.410 - 11.41.432, an attempt
 4 to commit an offense that is a crime under AS 11.41.100 - 11.41.220 or
 5 11.41.410 - 11.41.432, or an attempt to commit an offense under a law
 6 or ordinance of another jurisdiction having elements similar to a crime
 7 under AS 11.41.100 - 11.41.220 or 11.41.410 - 11.41.432; or

8 (iii) repeated exposure to conduct by a household
 9 member, as defined in AS 18.66.990, against another household member
 10 that is a crime under AS 11.41.230(a)(3) or 11.41.250 - 11.41.270 or an
 11 offense under a law or ordinance of another jurisdiction having elements
 12 similar to a crime under AS 11.41.230(a)(3) or 11.41.250 - 11.41.270;

13 (9) conduct by or conditions created by the parent, guardian, or
 14 custodian have subjected the child or another child in the same household to neglect;

15 (10) the parent, guardian, or custodian's ability to parent has been
 16 substantially impaired by the addictive or habitual use of an intoxicant, and the
 17 addictive or habitual use of the intoxicant has resulted in a substantial risk of harm to
 18 the child; if a court has previously found that a child is a child in need of aid under this
 19 paragraph, the resumption of use of an intoxicant by a parent, guardian, or custodian
 20 within one year after rehabilitation is prima facie evidence that the ability to parent is
 21 substantially impaired and the addictive or habitual use of the intoxicant has resulted
 22 in a substantial risk of harm to the child as described in this paragraph;

23 (11) the parent, guardian, or custodian has a mental illness, serious
 24 emotional disturbance, or mental deficiency of a nature and duration that places the
 25 child at substantial risk of physical harm or mental injury;

26 (12) the child has committed an illegal act as a result of pressure,
 27 guidance, or approval from the child's parent, guardian, or custodian.

28 **Sec. 47.10.013. Abandonment.** (a) For purposes of this chapter, the court
 29 may find abandonment of a child if a parent or guardian has shown a conscious
 30 disregard of parental responsibilities toward the child by failing to provide reasonable
 31 support, maintain regular contact, or provide normal supervision, considering the child's

age and need for care by an adult. Abandonment of a child also includes instances when the parent or guardian, without justifiable cause,

(1) left the child with another person without provision for the child's support and without meaningful communication with the child for a period of three months;

(2) has made only minimal efforts to support and communicate with the child;

(3) failed for a period of at least six months to maintain regular visitation with the child;

(4) failed to participate in a suitable plan or program designed to reunite the parent or guardian with the child;

(5) left the child without affording means of identifying the child and the child's parent or guardian;

(6) was absent from the home for a period of time that created a substantial risk of serious harm to a child left in the home;

(7) failed to respond to notice of child protective proceedings; or

(8) was unwilling to provide care, support, or supervision for the child.

(b) For purposes of (a) of this section, a parent or guardian who is a victim of domestic violence, or who has a child in the parent's or guardian's care who is the victim of domestic violence, is considered to have justifiable cause to take an action or to fail to take an action that would otherwise be considered to be abandonment of a child under (a) of this section if the action or failure to act is necessary to protect the parent or guardian, or a child in the care of the parent or guardian, from further acts of domestic violence. However, a parent or guardian who initially had justifiable cause to act or fail to act as described in this subsection may be considered to have abandoned the child without justifiable cause for purposes of (a) of this section if the parent or guardian does not take reasonable steps to reunify with or provide care for the abandoned child after becoming secure from further acts of domestic violence or after providing that another child in the care of the parent or guardian is secure from further acts of domestic violence.

Sec. 47.10.014. Neglect. For purposes of this chapter, the court may find

neglect of a child if the parent, guardian, or custodian fails to provide the child with adequate food, clothing, shelter, education, medical attention, or other care and control necessary for the child's physical and mental health and development, though financially able to do so or offered financial or other reasonable means to do so.

Sec. 47.10.015. Physical harm. For the purposes of this chapter, the court may find physical harm to a child or substantial risk of physical harm to a child if

(1) the child was the victim of an act described in AS 11.41.100 - 11.41.250, 11.41.300, 11.41.410 - 11.41.455, or AS 11.51.100 and the physical harm occurred as a result of conduct by or conditions created by a parent, guardian, or custodian; or

(2) a negligent act or omission by a parent, guardian, or custodian creates a substantial risk of injury to the child.

Sec. 47.10.019. Limitations on determinations. Notwithstanding other provisions of this chapter, the court may not find a minor to be a child in need of aid under this chapter solely on the basis that the child's family is poor, lacks adequate housing, or exhibits a lifestyle that is different from the generally accepted lifestyle standard of the community where the family lives. However, this section may not be construed to prevent a court from finding that a child is in need of aid if the child has been subjected to conduct or conditions described in AS 47.10.011 - 47.10.015.

* **Sec. 19.** AS 47.10.020(a) is amended to read:

(a) Whenever circumstances subject a child [MINOR] to the jurisdiction of the court under AS 47.10.005 - 47.10.142 [AS 47.10.010 - 47.10.142], the court shall appoint a competent person or agency to make a preliminary inquiry and report for the information of the court to determine whether the best interests of the child [MINOR] require that further action be taken. If [; IF], under this subsection, the court appoints a person or agency to make a preliminary inquiry and to report to it, then, upon the receipt of the report, the court may

(1) close [INFORMALLY ADJUST] the matter without a court hearing;

(2) determine whether the best interests of the child require that further action be taken; [,] or

(3) [IT MAY] authorize the person or agency having knowledge of the

facts of the case to file with the court a petition setting out the facts[; IF THE COURT INFORMALLY ADJUSTS THE MATTER, THE MINOR MAY NOT BE DETAINED OR TAKEN INTO THE CUSTODY OF THE COURT AS A CONDITION OF THE ADJUSTMENT, AND THE MATTER SHALL BE CLOSED BY THE COURT UPON ADJUSTMENT].

* **Sec. 20.** AS 47.10.020(b) is amended to read:

(b) The petition and all subsequent pleadings shall be styled as follows: "In the matter of, a **child** [MINOR] under 18 years of age." The petition may be executed upon the petitioner's information and belief [,] and must be verified. It must include the following information:

(1) the name, address, and occupation of the petitioner, together with the petitioner's relationship to the **child** [MINOR], and the petitioner's interest in the matter;

(2) the name, age, and address of the **child** [MINOR];

(3) a brief statement of the facts that bring the **child** [MINOR] within this chapter;

(4) the names and addresses of the **child's** [MINOR'S] parents;

(5) **the tribal affiliation, if known, of the child;**

(6) the name and address of the **child's** [MINOR'S] guardian [,] or of the person having control or custody of the **child** [MINOR].

* **Sec. 21.** AS 47.10.030(b) is amended to read:

(b) In all cases under this chapter, the **child** [MINOR], each parent, **the tribe, foster parent or other out-of-home care provider,** [OF THE MINOR AND THE] guardian, **and guardian ad litem** of the **child** [MINOR] shall be given notice adequate to give actual notice of the proceedings and the possibility of termination of parental rights and responsibilities, taking into account education and language differences that are known or reasonably ascertainable by the petitioner or the department. The notice of the hearing must contain all names by which the **child** [MINOR] has been identified. Notice shall be given in the 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 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** [MINOR], 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. 22.** AS 47.10.050(a) is amended to read:

(a) Whenever in the course of proceedings instituted under this chapter it appears to the court that the welfare of a **child** [MINOR] will be promoted by the appointment of an attorney to represent the **child** [MINOR OR AN ATTORNEY OR OTHER PERSON TO SERVE AS GUARDIAN AD LITEM], the court may make the appointment. **If it appears to the court that the welfare of a child in the proceeding will be promoted by the appointment of a guardian ad litem, the court shall make the appointment.** Appointment of a guardian ad litem or attorney shall be made under the terms of AS 25.24.310.

* **Sec. 23.** AS 47.10.070(a) is amended to read:

(a) The court may conduct the hearing on the petition in an informal manner [IN THE COURTROOM OR IN CHAMBERS]. 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).** The **department and the persons to whom the department must send notice of the hearing are entitled to** [REPRESENTATIVE OF THE DEPARTMENT MAY ALSO] be heard at the hearing. **However, the court may limit the presence of the foster parent or other out-of-home care provider 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) necessary to protect the privacy interests of the parties and will not be detrimental to the child.** The public shall be excluded from the hearing, but the court, in its discretion, may permit individuals to attend a hearing if their attendance is compatible with the best interests of the **child** [MINOR].

* **Sec. 24.** AS 47.10.080(a) is amended to read:

(a) An adjudication hearing shall be completed within 120 days after a finding of probable cause is entered unless the court finds good cause to continue the hearing. When determining whether to grant a continuance for good cause, the court shall take into consideration the age of the child and the potential adverse effect that the delay may have on the child. The court, at the conclusion of the hearing, [OR THEREAFTER] as the circumstances of the case may require, shall find and enter a judgment that the child [MINOR] is or is not a child in need of aid.

* Sec. 25. AS 47.10.080(c) is amended to read:

(c) If the court finds that the child [MINOR] is a child in need of aid, the court [IT] shall

(1) order the child [MINOR] committed to the department for placement in an appropriate setting for a period of time not to exceed two years or in any event past the date the child [MINOR] becomes 19 years of age, except that the department or the child's guardian ad litem may petition for and the court may grant in a hearing (A) one-year [TWO-YEAR] extensions of commitment that do not extend beyond the child's [MINOR'S] 19th birthday if the extension is in the best interests of the child [MINOR]; and (B) an additional one-year period of state custody [SUPERVISION] past age 19 if the continued state custody [SUPERVISION] is in the best interests of the person and the person consents to it; [THE DEPARTMENT MAY TRANSFER THE MINOR, IN THE MINOR'S BEST INTERESTS, FROM ONE PLACEMENT SETTING TO ANOTHER, AND THE MINOR, THE MINOR'S PARENTS OR GUARDIAN, AND THE MINOR'S ATTORNEY ARE ENTITLED TO REASONABLE NOTICE OF THE TRANSFER;]

(2) order the child [MINOR] released to a parent, relative, or guardian of the child [THE MINOR'S PARENTS, GUARDIAN,] or to another [SOME OTHER] suitable person, and, in appropriate cases, order the parent, relative [PARENTS], guardian, or other person to provide medical or other care and treatment; if the court releases the child [MINOR], it shall direct the department to supervise the care and treatment given to the child [MINOR], but the court may dispense with the department's supervision if the court finds that the adult to whom the child [MINOR] is released will adequately care for the child [MINOR] without supervision; the

department's supervision may not exceed two years or in any event extend past the date the child [MINOR] reaches age 19, except that the department or the child's guardian ad litem may petition for and the court may grant in a hearing

(A) one-year [TWO-YEAR] extensions of supervision that do not extend beyond the child's [MINOR'S] 19th birthday if the extensions are [EXTENSION IS] in the best interests of the child [MINOR]; and

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

(3) by order, under the grounds specified in (o) of this section or AS 47.10.088, the termination of [UPON A SHOWING IN THE ADJUDICATION BY CLEAR AND CONVINCING EVIDENCE THAT THERE IS A CHILD IN NEED OF AID UNDER AS 47.10.010(a) AS A RESULT OF PARENTAL CONDUCT AND UPON A SHOWING IN THE DISPOSITION BY CLEAR AND CONVINCING EVIDENCE THAT THE PARENTAL CONDUCT IS LIKELY TO CONTINUE TO EXIST IF THERE IS NO TERMINATION OF PARENTAL RIGHTS, TERMINATE] parental rights and responsibilities of one or both parents [,] and commit the child to the custody of the department [OR TO A LEGALLY APPOINTED GUARDIAN OF THE PERSON OF THE CHILD], and the department [OR GUARDIAN] shall report quarterly [ANNUALLY] to the court on efforts being made to find a permanent placement for the child.

* **Sec. 26.** AS 47.10.080(f) is amended to read:

(f) A child [MINOR] found to be a child in need of aid is a ward of the state while committed to the department or the department has the power to supervise the child's [MINOR'S] actions. For an order made under (c)(1) of this section, the [THE] court shall hold a permanency hearing as required by (l) of this section and at least annually thereafter during the continuation of foster care [REVIEW AN ORDER MADE UNDER (c)(1) OR (2) OF THIS SECTION ANNUALLY, AND MAY REVIEW THE ORDER MORE FREQUENTLY] to determine if continued placement [OR SUPERVISION], as it is being provided, is in the best interest of the child [MINOR. IF ANNUAL REVIEW UNDER THIS SUBSECTION WOULD ARISE

1 WITHIN 90 DAYS OF THE HEARING REQUIRED UNDER (I) OF THIS SECTION,
 2 THE COURT MAY POSTPONE REVIEW UNDER THIS SUBSECTION UNTIL THE
 3 TIME SET FOR THE HEARING]. The department, the child, and [MINOR,] the
 4 child's [MINOR'S] parents, guardian, and guardian ad litem [OR CUSTODIAN] are
 5 entitled, when good cause is shown, to a permanency hearing [REVIEW] on
 6 application. If the application is granted, the court shall afford these persons
 7 [PARTIES] and their counsel reasonable advance notice [IN ADVANCE OF THE
 8 REVIEW] and hold a permanency hearing where these persons [PARTIES] and their
 9 counsel shall be afforded an opportunity to be heard. The persons entitled to notice
 10 under AS 47.10.030(b) are entitled to notice of a permanency hearing under this
 11 subsection and are also entitled to be heard at the hearing. The child [MINOR]
 12 shall be afforded the opportunity to be present and to be heard at the permanency
 13 hearing. After the permanency hearing, the court shall make the written findings
 14 that are required under (I) of this section. The court shall review an order made
 15 under (c)(2) of this section at least annually to determine if continued supervision,
 16 as it is being provided, is in the best interest of the child; this review is not
 17 considered to be a permanency hearing and is not governed by the provisions of
 18 this subsection that relate to permanency hearings [REVIEW].

19 * Sec. 27. AS 47.10.080(i) is amended to read:

20 (i) A child or [MINOR,] the child's [MINOR'S] parents, [OR] guardian, or
 21 guardian ad litem, or attorney, acting on the child's [MINOR'S] behalf, or the
 22 department may appeal a judgment or order, or the stay, modification, setting aside,
 23 revocation, or enlargement of a judgment or order issued by the court under this
 24 chapter. Absent extraordinary circumstances, a decision on the appeal shall be
 25 issued no later than 90 days after the latest of the following:

26 (1) the date oral argument, if any, is heard on the appeal; or

27 (2) 45 days after the last date oral argument could have been timely
 28 requested if oral argument was not requested.

29 * Sec. 28. AS 47.10.080(l) is repealed and reenacted to read:

30 (l) Within 12 months after the date a child enters foster care as calculated under
 31 AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and

1 permanent plan developed in the hearing are governed by the following provisions:

2 (1) the persons entitled to be heard under AS 47.10.070 or under (f) of
3 this section are also entitled to be heard at the hearing held under this subsection;

4 (2) when establishing the permanent plan for the child, the court shall
5 make appropriate written findings, including findings related to whether

6 (A) and when the child should be returned to the parent or
7 guardian;

8 (B) the child should be placed for adoption or legal guardianship
9 and whether a petition for termination of parental rights should be filed by the
10 department; and

11 (C) the child should be placed in another planned, permanent
12 living arrangement and what steps are necessary to achieve the new
13 arrangement;

14 (3) if the court is unable to make a finding required under (2) of this
15 subsection, the court shall hold another hearing within a reasonable period of time;

16 (4) in addition to the findings required by (2) of this subsection, the
17 court shall also make appropriate written findings related to

18 (A) whether the department has made the reasonable efforts
19 required under AS 47.10.086 to offer appropriate family support services to
20 remedy the parent's or guardian's conduct or conditions in the home that made
21 the child a child in need of aid under this chapter;

22 (B) whether the parent or guardian has made substantial progress
23 to remedy the parent's or guardian's conduct or conditions in the home that
24 made the child a child in need of aid under this chapter; and

25 (C) if the permanent plan is for the child to remain in out-of-
26 home-care, whether the child's out-of-home placement continues to be
27 appropriate and in the best interests of the child;

28 (5) the court shall hold a hearing to review the permanent plan at least
29 annually until successful implementation of the plan; if the plan approved by the court
30 changes after the hearing, the department shall promptly apply to the court for another
31 permanency hearing, and the court shall conduct the hearing within 30 days after

1 application by the department.

2 * **Sec. 29.** AS 47.10.080(o) is amended to read:

3 (o) For purposes of terminating a parent's parental rights under the standards
4 in (c)(3) of this section, the court may determine that incarceration of the parent is
5 sufficient grounds for determining that a **child** [MINOR] is a child in need of aid under
6 **AS 47.10.011** [AS 47.10.010(a)(1)] as a result of parental conduct and that the **parental**
7 **rights of the incarcerated parent should be terminated** [CONDUCT IS LIKELY TO
8 CONTINUE] if the court finds, based on clear and convincing evidence, that [THE]

9 (1) **the** period of incarceration that the parent is scheduled to serve
10 during the child's minority is significant considering the child's age and the child's need
11 for an adult's care and supervision; [AND]

12 (2) **there is not another parent willing and able to care for the child;**
13 **and**

14 (3) **the incarcerated** parent has failed to make adequate provisions for
15 care of the child during the period of incarceration that will be during the child's
16 minority.

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

18 (p) If a child is removed from the parental home, the department shall provide
19 reasonable visitation between the child and the child's parents, guardian, and family.
20 When determining what constitutes reasonable visitation with a family member, the
21 department shall consider the nature and quality of the relationship that existed between
22 the child and the family member before the child was committed to the custody of the
23 department. The court may require the department to file a visitation plan with the
24 court. The department may deny visitation to the parents, guardian, or family members
25 if there is clear and convincing evidence that visits are not in the child's best interests.
26 A parent or guardian who is denied visitation may request a review hearing.

27 (q) If the court orders a child committed to the department under (c) of this
28 section and the department places the child in licensed foster care, the department shall

29 (1) provide the foster parent with a copy of
30 (A) appropriate information held by the department regarding the
31 child to the extent required by AS 47.12.310(b)(8);

(B) all initial, updated, and revised case service plans for the child, court orders relating to the child, and the child's medical, mental, and education reports prepared by or for the department, including reports compiled before the child was placed with the foster parent; and

(C) supplements to the plans, orders, and reports described in (B) of this paragraph;

(2) require the foster parent to

(A) maintain and update records regarding medical, mental, educational, and behavioral services provided to the child;

(B) provide all records described in (A) of this paragraph to the department when the child leaves the foster home placement; and

(C) maintain the confidentiality of records regarding a child placed in the foster home except when disclosure of the records is allowed under regulations of the department or when disclosure is reasonably necessary to ensure continuation of care for the child through appropriate medical, mental, educational, and behavioral services.

(r) If the court orders a child committed to the department under (c) of this section, the court shall order the child's parent or guardian to provide the department with

(1) the names, addresses, and telephone numbers of all of the child's medical providers;

(2) the names, addresses, and telephone numbers of mental health providers that have provided services to the child;

(3) the names, addresses, and telephone numbers of schools, preschools, or day care facilities that the child was attending before the child was committed to the department;

(4) a description of special needs of the child, if any; and

(5) the names and locations of relatives who may be willing to have the child placed in their home.

(s) The department may transfer a child, in the child's best interests, from one placement setting to another, and the child, the child's parents or guardian, the child's

foster parents or out-of-home caregiver, the child's guardian ad litem, the child's attorney, and the child's tribe are entitled to advance notice of a nonemergency transfer. A party opposed to the proposed transfer may request a hearing and must prove by clear and convincing evidence that the transfer would be contrary to the best interests of the child for the court to deny the transfer. A foster parent or out-of-home caregiver who requests a nonemergency change in placement of the child shall provide the department with reasonable advance notice of the requested change.

* **Sec. 31.** AS 47.10.082 is amended to read:

Sec. 47.10.082. Health and safety [BEST INTERESTS] of child and other considerations. In making its dispositional order under AS 47.10.080(c), the court shall **keep the health and safety of the child as the court's paramount concern and** consider

(1) the best interests of the child; [AND]

(2) the ability of the state to take custody and to care for the child to protect the child's best interests under **AS 47.10.005 - 47.10.142; and**

(3) the potential harm to the child caused by removal of the child from the home and family environment [AS 47.10.010 - 47.10.142].

* **Sec. 32.** AS 47.10.084(a) is amended to read:

(a) When a child is committed under AS 47.10.080(c)(1) to the department, released under AS 47.10.080(c)(2) to the child's parents, guardian, or other suitable person, or committed to the department or to a legally appointed guardian of the person of the child under AS 47.10.080(c)(3), a relationship of legal custody exists. This relationship imposes on the department and its authorized agents or the parents, guardian, or other suitable person the responsibility of physical care and control of the child, the determination of where and with whom the child shall live, the right and duty to protect, **nurture**, train, and discipline the child, [AND] the duty of providing the child with food, shelter, education, and medical care, **and the right and responsibility to make decisions of financial significance concerning the child.** These obligations are subject to any residual parental rights and responsibilities and rights and responsibilities of a guardian if one has been appointed. When a child is committed to the department and the department places the child with the child's parent, the parent

has the responsibility to provide and pay for food, shelter, education, and medical care for the child. When parental rights have been terminated, or there are no living parents and no guardian has been appointed, the responsibilities of legal custody include those in (b) and (c) of this section. The department or person having legal custody of the child may delegate any of the responsibilities under this section, except authority to consent to marriage, adoption, and military enlistment may not be delegated. For purposes of this chapter a person in charge of a placement setting is an agent of the department.

* **Sec. 33.** AS 47.10 is amended by adding new sections to read:

Sec. 47.10.086. Reasonable efforts. (a) Except as provided in (b) and (c) of this section, the department shall make timely, reasonable efforts to provide family support services to the child and to the parents or guardian of the child that are designed to prevent out-of-home placement of the child or to enable the safe return of the child to the family home, when appropriate, if the child is in an out-of-home placement. The department's duty to make reasonable efforts under this subsection includes the duty to

(1) identify family support services that will assist the parent or guardian in remedying the conduct or conditions in the home that made the child a child in need of aid;

(2) actively offer the parent or guardian, and refer the parent or guardian to, the services identified under (1) of this subsection; the department shall refer the parent or guardian to community-based family support services whenever community-based services are available and desired by the parent or guardian; and

(3) document the department's actions that are taken under (1) and (2) of this subsection.

(b) If the court makes a finding at a hearing conducted under AS 47.10.080(1) that a parent or guardian has not sufficiently remedied the parent's or guardian's conduct or the conditions in the home despite reasonable efforts made by the department in accordance with this section, the court may conclude that continuation of reasonable efforts of the type described in (a) of this section are not in the best interests of the child. The department shall then make reasonable efforts to place the

1 child in a timely manner in accordance with the permanent plan and to complete
2 whatever steps are necessary to finalize the permanent placement of the child.

3 (c) The court may determine that reasonable efforts of the type described in (a)
4 of this section are not required if the court has found by a preponderance of the
5 evidence that

6 (1) the parent or guardian has subjected the child to circumstances that
7 pose a substantial risk to the child's health or safety; these circumstances include
8 abandonment, sexual abuse, torture, chronic mental injury, or chronic physical harm;

9 (2) the parent or guardian has

10 (A) committed homicide under AS 11.41.100 - 11.41.130 of a
11 parent of the child or of a child;

12 (B) aided or abetted, attempted, conspired, or solicited under
13 AS 11.16 or AS 11.31 to commit a homicide described in (A) of this paragraph;

14 (C) committed an assault that is a felony under AS 11.41.200 -
15 11.41.220 and results in serious physical injury to a child; or

16 (D) committed the conduct described in (A) - (C) of this
17 paragraph that violated a law or ordinance of another jurisdiction having
18 elements similar to an offense described in (A) - (C) of this paragraph;

19 (3) the parent or guardian has, during the 12 months preceding the
20 permanency hearing, failed to comply with a court order to participate in family support
21 services;

22 (4) the department has conducted a reasonably diligent search over a
23 time period of at least three months for an unidentified or absent parent and has failed
24 to identify and locate the parent;

25 (5) the parent or guardian is the sole caregiver of the child and the
26 parent or guardian has a mental illness or mental deficiency of such nature and duration
27 that, according to the statement of a psychologist or physician, the parent or guardian
28 will be incapable of caring for the child without placing the child at substantial risk of
29 physical or mental injury even if the department were to provide family support
30 services to the parent or guardian for 12 months;

31 (6) the parent or guardian has previously been convicted of a crime

1 involving a child in this state or in another jurisdiction and, after the conviction, the
2 child was returned to the custody of the parent or guardian and later removed because
3 of an additional substantiated report of physical or sexual abuse by the parent or
4 guardian;

5 (7) a child has suffered substantial physical harm as the result of abusive
6 or neglectful conduct by the parent or guardian or by a person known by the parent or
7 guardian and the parent or guardian knew or reasonably should have known that the
8 person was abusing the child;

9 (8) the parental rights of the parent have been terminated with respect
10 to another child because of child abuse or neglect, the parent has not remedied the
11 conditions or conduct that led to the termination of parental rights, and the parent has
12 demonstrated an inability to protect the child from substantial harm or the risk of
13 substantial harm;

14 (9) the child has been removed from the child's home on at least two
15 previous occasions, family support services were offered or provided to the parent or
16 guardian at those times, and the parent or guardian has demonstrated an inability to
17 protect the child from substantial harm or the risk of substantial harm; or

18 (10) the parent or guardian is incarcerated and is unavailable to care for
19 the child during a significant period of the child's minority, considering the child's age
20 and need for care by an adult.

21 (d) If the court determines under (b) or (c) of this section that reasonable
22 efforts under (a) of this section are not required to be provided,

23 (1) the court shall hold a permanency hearing for the child within 30
24 days after the determination; and

25 (2) the department shall make reasonable efforts to place the child in
26 a timely manner in accordance with the permanency plan, and complete whatever steps
27 are necessary to finalize the permanent placement of the child.

28 (e) The department may develop and implement an alternative permanency plan
29 for the child while the department is also making reasonable efforts to return the child
30 to the child's family under (a) of this section.

31 (f) In making determinations and reasonable efforts under this section, the

primary consideration is the child's best interests.

Sec. 47.10.088. Termination of parental rights and responsibilities. (a)

Except as provided in AS 47.10.080(o), the rights and responsibilities of the parent regarding the child may be terminated for purposes of freeing a child for adoption or other permanent placement if the court finds

(1) by clear and convincing evidence that

(A) the child has been subjected to conduct or conditions described in AS 47.10.011; and

(B) the parent

(i) has not remedied the conduct or conditions in the home that place the child at substantial risk of harm; or

(ii) has failed, within a reasonable time, to remedy the conduct or conditions in the home that place the child in substantial risk so that returning the child to the parent would place the child at substantial risk of physical or mental injury; and

(2) by preponderance of the evidence that the department has complied with the provisions of AS 47.10.086 concerning reasonable efforts.

(b) In making a determination under (a)(1)(B) of this section, the court may consider any fact relating to the best interests of the child, including

(1) the likelihood of returning the child to the parent within a reasonable time based on the child's age or needs;

(2) the amount of effort by the parent to remedy the conduct or the conditions in the home;

(3) the harm caused to the child;

(4) the likelihood that the harmful conduct will continue; and

(5) the history of conduct by or conditions created by the parent.

(c) In a proceeding under this chapter involving termination of the parental right of a parent, the court shall consider the best interests of the child.

(d) Except as provided in (e) of this section, the department shall petition for termination of a parent's rights to a child, without making further reasonable efforts, when a child is under the jurisdiction of the court under AS 47.10.010 and 47.10.011,

1 and

2 (1) the child has been in foster care for at least 15 of the most recent
3 22 months;

4 (2) the court has determined that the child is abandoned under
5 AS 47.10.013 and the child is younger than six years of age;

6 (3) the court has made a finding under AS 47.10.086(b) or a
7 determination under AS 47.10.086(c) that the best interests of the child do not require
8 further reasonable efforts by the department;

9 (4) a parent has made three or more attempts within a 15-month period
10 to remedy the parent's conduct or conditions in the home without lasting change; or

11 (5) a parent has made no effort to remedy the parent's conduct or the
12 conditions in the home by the time of the permanency hearing under AS 47.10.080(l).

13 (e) If one or more of the conditions listed in (d) of this section are present, the
14 department shall petition for termination of the parental rights to a child unless the
15 department

16 (1) has documented a compelling reason for determining that filing the
17 petition would not be in the best interests of the child; a compelling reason under this
18 paragraph may include care by a relative for the child; or

19 (2) is required to make reasonable efforts under AS 47.10.086 and the
20 department has not provided to the parent, consistent with the time period in the
21 department's case plan, the family support services that the department has determined
22 are necessary for the safe return of the child to the home.

23 (f) A child is considered to have entered foster care under this chapter on the
24 earlier of

25 (1) the date of the first judicial finding of child abuse or neglect; or

26 (2) 60 days after the date of removal of the child from the child's home
27 under this chapter.

28 (g) This section does not preclude the department from filing a petition to
29 terminate the parental rights and responsibilities to a child for other reasons, or at an
30 earlier time than those specified in (d) of this section, if the department determines that
31 filing a petition is in the best interests of the child.

(h) The court may order the termination of parental rights and responsibilities of one or both parents under AS 47.10.080(c)(3) and commit the child to the custody of the department. The rights of one parent may be terminated without affecting the rights of the other parent.

(i) The department shall concurrently identify, recruit, process, and approve a qualified person or family for an adoption whenever a petition to terminate a parent's rights to a child is filed. If the court issues an order to terminate under (j) of this section, the department shall report within 30 days on the efforts being made to recruit a permanent placement for the child if a permanent placement was not approved at the time of the trial under (j) of this section. The report must document recruitment efforts made for the child.

(j) No later than six months after the date on which the petition to terminate parental rights is filed, the court before which the petition is pending shall hold a trial on the petition unless the court finds that good cause is shown for a continuance. When determining whether to grant a continuance for good cause, the court shall take into consideration the age of the child and the potential adverse effect that the delay may have on the child. The court shall make written findings when granting a continuance.

(k) The court shall issue an order on the petition to terminate within 90 days after the last day of the trial on the petition to terminate parental rights.

* **Sec. 34.** AS 47.10.090(e) is amended to read:

(e) The court's official records under this chapter may be inspected only with the court's permission and only by persons having a legitimate interest in them. **A foster parent is considered to have a legitimate interest in those portions of the court's records relating to a child who is placed by the department with the foster parent or who the department proposes for placement with the foster parent.**

* **Sec. 35.** AS 47.10.092(a) is amended to read:

(a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of a **child** [MINOR] subject to a proceeding under **AS 47.10.005 - 47.10.142** [AS 47.10.010 - 47.10.142] may disclose confidential or privileged information about the **child or the child's family** [MINOR], including information that has been lawfully

obtained from agency or court files, to the governor, the lieutenant governor, a legislator, the ombudsman appointed under AS 24.55, the attorney general, and the commissioners of health and social services, administration, or public safety, or an employee of these persons, for review or use in their official capacities. The department shall [MAY] disclose additional confidential or privileged information and make copies of documents available for inspection [DOCUMENTS] about the child or the child's family [MINOR] to these state officials or employees for review or use in their official capacities upon request of the official or employee and submission of satisfactory evidence that a parent or legal guardian of the child has requested the state official's assistance in the case as part of the official's duties. A person to whom disclosure is made under this section may not disclose confidential or privileged information about the child or the child's family [MINOR] to a person not authorized to receive it.

* Sec. 36. AS 47.10.093(b) is amended to read:

(b) A state or municipal agency or employee shall [MAY] disclose appropriate 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 or 47.14.220;

(2) a person or an agency requested by the department or the child's legal custodian to provide consultation or services for a child [MINOR] who is subject to the jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of the consultation or services;

(3) foster parents or relatives with whom the child is placed by the department as may be necessary to enable the foster parents or relatives to provide appropriate care for the child who is the subject of the case, to protect the safety of the child who is the subject of the case, and to protect the safety and property of family members and visitors of the foster parents or relatives;

(4) school officials as may be necessary to enable the school to provide appropriate counseling and support services to the child [MINOR] who is the subject of the case, to protect the safety of the child [MINOR] who is the subject of the case,

and to protect the safety of school students and staff;

(5) [(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 child;

(6) [AND (5)] a [STATE OR MUNICIPAL] law enforcement agency of this state or another jurisdiction as may be necessary for the protection of any child [A SPECIFIC INVESTIGATION BEING CONDUCTED BY THAT AGENCY] or for actions [DISCLOSURES] by that agency to protect the public safety;

(7) members of a multidisciplinary child protection team created under AS 47.14.300 as may be necessary for the performance of their duties;

(8) the state medical examiner under AS 12.65 as may be necessary for the performance of the duties of the state medical examiner;

(9) a person who has made a report of harm as required by AS 47.17.020 to inform the person that the investigation was completed and of action taken to protect the child who was the subject of the report; and

(10) the child support enforcement agency established in AS 25.27.010 as may be necessary to establish and collect child support for a child who is a child in need of aid under this chapter.

* Sec. 37. AS 47.10.141(f) is amended to read:

(f) If a child [MINOR], without permission, leaves the semi-secure portion of an office, program, shelter, or facility to which the child [MINOR] was taken by a peace officer under (b)(1)(C) [(b)(1)(c)] of this section, the office, program, shelter, or facility shall immediately notify the department and the nearest law enforcement agency of the identity of the child [MINOR] and the child's [MINOR'S] absence. If the same child [MINOR] is again taken into protective custody under (b) of this section and the peace officer knows that the child [MINOR] has previously been reported under this subsection as missing from a semi-secure placement, the peace officer, in addition to taking the appropriate action under (b) of this section, shall report the circumstances and the identity of the child [MINOR] to the department. Within 48 hours after receiving this report, the department shall determine whether to file a petition alleging that the child [MINOR] is a child in need of aid under AS 47.10.011

[AS 47.10.010(a)(1)]. If the department decides not to file a petition alleging that the child [MINOR] is a child in need of aid, the department shall, within seven state working days after receiving the report from the peace officer under this subsection, send to the child's [MINOR'S] parents or guardian, as applicable, written notice of its determination not to proceed with the petition, including the reasons on which the determination was based. If the department is unable to obtain a reasonably reliable address for a parent or guardian, the department shall keep a copy of the notice on file and, notwithstanding AS 47.10.093, release the notice to the child's [MINOR'S] parent or guardian on request of the parent or guardian. If the department files a petition alleging that the child [MINOR] is a child in need of aid, the court shall proceed under AS 47.10.142(d).

* **Sec. 38.** AS 47.10.141(g) is amended to read:

(g) If the department files a petition alleging the child [MINOR] is a child in need of aid under AS 47.10.011(5) [AS 47.10.010(a)(1)] because the child [MINOR] is habitually absent from home or refuses available care, the child's [MINOR'S] parent or guardian shall attend each hearing held during the child-in-need-of-aid proceedings unless the court excuses the parent or guardian from attendance for good cause. If the child [MINOR] is found to be a child in need of aid, the court may order that the

(1) child participate in treatment;

(2) [MINOR'S] parent or guardian [(1)] personally participate in treatment reasonably available in the parent or guardian's community as specified in a plan set out in the court order; and

(3) child and the parent or guardian [(2)] comply with other conditions set out in the court order.

* **Sec. 39.** AS 47.10.142(a) is amended to read:

(a) The Department of Health and Social Services may take emergency custody of a child [MINOR] upon discovering any of the following circumstances:

(1) the child [MINOR] has been abandoned as abandonment is described in AS 47.10.013;

(2) the child [MINOR] has been [GROSSLY] neglected by the child's [MINOR'S] parents or guardian, as "neglect" is described [DEFINED] in AS 47.10.014

[AS 47.17.290], and the department determines that immediate removal from the child's [MINOR'S] surroundings is necessary to protect the child's [MINOR'S] life or provide immediate necessary medical attention;

(3) the child [MINOR] has been subjected to physical harm [CHILD ABUSE OR NEGLECT] by a person responsible for the child's [MINOR'S] welfare, [AS "CHILD ABUSE OR NEGLECT" IS DEFINED IN AS 47.17.290,] and the department determines that immediate removal from the child's [MINOR'S] surroundings is necessary to protect the child's [MINOR'S] life or that immediate medical attention is necessary; or

(4) the child or a sibling [MINOR] has been sexually abused under circumstances listed in AS 47.10.011(7) [AS 47.10.010(a)(4)].

* **Sec. 40.** AS 47.10.142(c) is amended to read:

(c) When a child is taken into custody under (a) or (b) of this section or when the department is notified of a child's presence in either a program for runaway children [MINORS] under AS 47.10.300 - 47.10.390 or a shelter for runaway children [MINORS] under AS 47.10.392 - 47.10.399, the department shall immediately, and in no event more than 24 [12] hours later unless prevented by lack of communication facilities, notify the parents or the person or persons having custody of the child. If the department determines that continued custody is necessary to protect the child, the department shall notify the court of the emergency custody by filing, within 24 [12] hours after custody was assumed, a petition alleging that the child is a child in need of aid. If the department releases the child within 24 [12] hours after taking the child into custody and does not file a child in need of aid petition, the department shall, within 24 [12] hours after releasing the child, file with the court a report explaining why the child was taken into custody, why the child was released, and to whom the child was released.

* **Sec. 41.** AS 47.10.142(h) is amended to read:

(h) Within 12 [18] months after a child [MINOR] is committed to the department under this section, the court shall review the placement plan and actual placement of the child [MINOR] under AS 47.10.080(l).

* **Sec. 42.** AS 47.10 is amended by adding a new section to read:

1 **Sec. 47.10.960. Duty and standard of care not created.** Nothing in this title
 2 creates a duty or standard of care for services to children and their families being
 3 served under AS 47.10.

4 * **Sec. 43.** AS 47.10.990(1) is amended to read:

5 (1) "care" [OR "CARING" UNDER AS 47.10.010(a)(1) AND
 6 47.10.120(a)] means to provide for the physical, [EMOTIONAL,] mental, and social
 7 needs of the child;

8 * **Sec. 44.** AS 47.10.990(2) is amended to read:

9 (2) "child in need of aid" means a **child** [MINOR] found to be within
 10 the jurisdiction of the court under **AS 47.10.010 and 47.10.011** [AS 47.10.010(a)];

11 * **Sec. 45.** AS 47.10.990 is amended by adding new paragraphs to read:

12 (8) "child" means a person under 18 years of age and a person 19 years
 13 of age if that person was under 18 years of age at the time that a proceeding under this
 14 chapter was commenced;

15 (9) "custodian" means a natural person 18 years of age or older to
 16 whom a parent or guardian has transferred temporary physical care, custody, and
 17 control of the child for a period of time;

18 (10) "domestic violence" has the meaning given in AS 18.66.990;

19 (11) "family support services" means the services and activities provided
 20 to children and their families, including those provided by the community, a church,
 21 or other service organization, both to prevent removal of a child from the parental home
 22 and to facilitate the child's safe return to the family; "family support services" may
 23 include counseling, substance abuse treatment, mental health services, assistance to
 24 address domestic violence, visitation with family members, parenting classes, in-home
 25 services, temporary child care services, and transportation;

26 (12) "foster care" means care provided by a person or household under
 27 a foster home license required under AS 47.35.015;

28 (13) "guardian" means a natural person who is legally appointed
 29 guardian of the child by the court;

30 (14) "hazardous volatile material or substances" has the meaning given
 31 in AS 47.37.270;

(15) "intoxicant" means a substance that temporarily diminishes a person's control over mental or physical powers, including alcohol, controlled substances under AS 11.71, and a hazardous volatile material or substance misused by inhaling its vapors;

(16) "mental injury" has the meaning given in AS 47.17.290;

(17) "parent" means the biological or adoptive parent of the child;

(18) "permanency hearing" means a hearing

(A) designed to reach a decision in a case concerning the permanent placement of a child under AS 47.10; and

(B) at which the direction of the case involving the child is determined;

(19) "physical injury" has the meaning given in AS 11.81.900(b);

(20) "reasonable efforts" means, with respect to family support services required under AS 47.10.086, consistent attempts made during a reasonable time period and time-limited services;

(21) "reasonable time" means a period of time that serves the best interests of the child, taking in account the affected child's age, emotional and developmental needs, and ability to form and maintain lasting attachments;

(22) "serious physical injury" has the meaning given in AS 11.81.900(b);

(23) "sexual abuse" means the conduct described in AS 11.41.410 - 11.41.460; conduct constituting "sexual exploitation" as defined in AS 47.17.290, and conduct prohibited by AS 11.66.100 - 11.66.150;

(24) "support" has the meaning given in AS 11.51.120(b).

* **Sec. 46.** AS 47.12.310(b) is amended to read:

(b) A state or municipal agency or employee shall [MAY] disclose appropriate 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 by the department or the minor's

legal custodian to provide consultation or services for a minor who is subject to the jurisdiction of the court under this chapter **as necessary to enable the provision of the consultation or services;**

(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 or to enable the school to provide appropriate counseling and supportive services to meet the needs of a minor about whom information is disclosed;

(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 **of this state or another jurisdiction** as may be necessary for **the protection, rehabilitation, or supervision of any minor** [A SPECIFIC INVESTIGATION BEING CONDUCTED BY THAT AGENCY] or for **actions** [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;

(7) the state medical examiner under AS 12.65 as may be necessary to perform the duties of the state medical examiner; and

(8) foster parents or relatives with whom the child is placed by the department as may be necessary to enable the foster parents or relatives to provide appropriate care for the child who is the subject of the case, to protect the safety of the child who is the subject of the case, and to protect the safety and property of family members and visitors of the foster parents or relatives.

* Sec. 47. AS 47.14.100(a) is amended to read:

(a) Subject to **(e), (f), (i), and (j)** [(e) AND (f)] of this section, the department shall arrange for the care of every child committed to its custody by placing the child in a foster home or in the care of an agency or institution providing care for children inside or outside the state. The department may place a child in a suitable family home, with or without compensation, and may place a child released to it, in writing verified by the parent, or guardian or other person having legal custody, for adoptive

purposes, in a home for adoption in accordance with existing law.

* **Sec. 48.** AS 47.14.100(d) is amended to read:

(d) In addition to money paid for the maintenance of foster children under (b) of this section, the department

(1) shall pay the costs of caring for physically or mentally handicapped foster children, including the additional costs of medical care, habilitative and rehabilitative treatment, services and equipment, special clothing, and the indirect costs of medical care, including child care and transportation expenses;

(2) may pay for respite care; in this paragraph, "respite care" means child care for the purpose of providing

[(A)] temporary relief from the stresses of caring for a foster child [WHO HAS A PHYSICAL OR MENTAL DISABILITY OR A PHYSICAL OR MENTAL IMPAIRMENT; IN THIS SUBPARAGRAPH,

(i) "PHYSICAL OR MENTAL DISABILITY" HAS THE MEANING GIVEN IN AS 18.80.300(12)(A), (B), AND (D); AND

(ii) "PHYSICAL OR MENTAL IMPAIRMENT" HAS THE MEANING GIVEN IN AS 18.80.300; AND

(B) PROTECTION FOR THE CHILD WHEN THE FOSTER PARENT IS

(i) AWAY FROM THE HOME BECAUSE OF AN EMERGENCY AND OTHER CARE IS NOT AVAILABLE FOR THE CHILD; OR

(ii) ON VACATION AND THE CHILD, BECAUSE OF AGE OR INFIRMITY, CANNOT BE PLACED IN ANY OTHER TYPE OF TEMPORARY CARE FACILITY]; and

(3) may pay a subsidized guardianship payment under AS 25.23.210 when a foster child's foster parents or other persons approved by the department become court-appointed legal guardians of the child.

* **Sec. 49.** AS 47.14.100(e) is amended to read:

(e) A child may not be placed in a foster home or in the care of an agency or institution providing care for children if a [BLOOD] relative by blood or marriage

[EXISTS WHO] requests **placement** [CUSTODY] of the child **in the relative's home**.
 However, the department may retain custody of the child and provide for its placement
 in the same manner as for other children if **the department**

**(1) [IT] makes a determination, supported by clear and convincing
 evidence, that placement [THE CUSTODY] of the child with [BY] the [BLOOD]
 relative will result in physical or mental injury; in [EMOTIONAL DAMAGE. IN]
 making that determination, poverty, including inadequate or crowded housing, on the
 part of the blood relative, is not considered prima facie evidence that physical or
 emotional damage to the child will occur; this [THIS] determination may be appealed
 to the superior court to hear the matter de novo;**

**(2) determines that a member of the relative's household who is 12
 years of age or older was the perpetrator in a substantiated report of abuse under
 AS 47.17; or**

**(3) determines that a member of the relative's household who is 12
 years of age or older is under arrest for, charged with, has been convicted of, or
 has been found not guilty by reason of insanity of, a serious offense;
 notwithstanding this paragraph, the department may place or continue the
 placement of a child at the relative's home if the relative demonstrates to the
 satisfaction of the department that conduct described in this paragraph occurred
 at least five years before the intended placement and the conduct**

**(A) did not involve a victim who was under 18 year of age
 at the time of the conduct;**

**(B) was not a crime of domestic violence as defined in
 AS 18.66.990; and**

**(C) was not a violent crime under AS 11.41.100 - 11.41.455
 or a law or ordinance of another jurisdiction having similar elements.**

* **Sec. 50.** AS 47.14.100 is amended by adding new subsections to read:

(i) A child may not be placed with an out-of-home care provider, as defined
 in AS 47.14.299, if the department determines that the child can remain safely at home
 with one parent or guardian.

(j) For the purpose of determining whether the home of a relative meets the

requirements for placement of a child, the department shall conduct a criminal background check from state and national criminal justice information available under AS 12.62. The department may conduct a fingerprint background check on any member of the relative's household who is 12 years of age or older when the relative requests placement of the child. For the purposes of obtaining criminal justice information under this subsection, the department is a criminal justice agency conducting a criminal justice activity under AS 12.62.

* **Sec. 51.** AS 47.14 is amended by adding a new section to read:

Sec. 47.14.115. Training of foster parents. If the department has placed a child in a foster home, the department shall, no less often than once quarterly, make available training that will assist the foster parent or parents in providing care that will meet the needs of the child placed in the home and the requirements established by the department in regulation.

* **Sec. 52.** AS 47.14.240(d) is amended to read:

(d) In reviewing a case, the local review panel shall consider the case plan and 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 review panel shall 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) the child's health care providers;
- (8) 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

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

* **Sec. 53.** AS 47.14.240(h) is amended to read:

(h) The report required under (g) of this section must make advisory recommendations based on the best interests of the child in accordance with AS 47.10.082 and must include notification of the right to request court review under AS 47.10.080(f). If the court has scheduled the case for review, the local review panel shall submit its report at least 20 days before the hearing, **and the department shall present to the court the recommendations that are made in the report.**

* **Sec. 54.** AS 47.14 is amended by adding a new section to read:

Article 3A. Multidisciplinary Child Protection Teams.

Sec. 47.14.300. Multidisciplinary child protection teams. (a) The

department shall create multidisciplinary child protection teams to assist in the evaluation and investigation of reports made under AS 47.17 and to provide consultation and coordination for agencies involved in child protection cases under AS 47.10.

(b) A team created under (a) of this section may invite other persons to serve on the team who have knowledge of and experience in child abuse and neglect matters. These persons may include

(1) mental and physical health practitioners licensed under AS 08;

(2) child development specialists;

(3) educators;

(4) peace officers as defined in AS 11.81.900;

(5) victim counselors as defined in AS 18.66.250;

(6) experts in the assessment and treatment of substance abuse;

(7) representatives of the district attorney's office and the attorney general's office;

(8) persons familiar with 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act);

(9) guardians ad litem; and

1 (10) staff members of a child advocacy center if a center is located in
2 the relevant area.

3 (c) A team created under (a) and (b) of this section shall review records on a
4 case referred to the team by the department. The department shall make available to
5 the team its records on the case and other records compiled for planning on the case
6 by other agencies at the request of the department. The team may make
7 recommendations to the department on appropriate planning for the case.

8 (d) Except for a public report issued by a team that does not contain
9 confidential information, records or other information collected by the team or a
10 member of the team related to duties under this section are confidential and not subject
11 to public disclosure under AS 09.25.100 and 09.25.110.

12 (e) Meetings of a team are closed to the public and are not subject to the
13 provisions of AS 44.62.310 and 44.62.312.

14 (f) The determinations, conclusions, and recommendations of a team or its
15 members are not admissible in a civil or criminal proceeding. A member may not be
16 compelled to disclose a determination, conclusion, recommendation, discussion, or
17 thought process through discovery or testimony in a civil or criminal proceeding.
18 Records and information collected by the team are not subject to discovery or subpoena
19 in connection with a civil or criminal proceeding.

20 (g) Notwithstanding (f) of this section, an employee of the department may
21 testify in a civil or criminal proceeding concerning cases reviewed by a team even
22 though the department's records were reviewed by a team and formed the basis of that
23 employee's testimony and the team's report.

24 (h) A person who serves on a multidisciplinary child protection team is not
25 liable for damage or other relief in an action brought by the reason of the performance
26 of a duty, a function, or an activity of the team.

27 (i) In this section, "team" means a multidisciplinary child protection team
28 created under (a) and (b) of this section.

29 * **Sec. 55.** AS 47.14.990(2) is amended to read:

30 (2) "child in need of aid" means a child [MINOR] found to be within
31 the jurisdiction of the court under AS 47.10.010 and 47.10.011 [AS 47.10.010(a)];

1 * **Sec. 56.** AS 47.14.990 is amended by adding new paragraphs to read:

2 (11) "criminal justice information" has the meaning given in
3 AS 12.62.900;

4 (12) "serious offense" has the meaning given in AS 12.62.900.

5 * **Sec. 57.** AS 47.17.020(a) is amended to read:

6 (a) The following persons who, in the performance of their occupational duties,
7 or with respect to (9) of this subsection, in the performance of their appointed
8 duties, have reasonable cause to suspect that a child has suffered harm as a result of
9 child abuse or neglect shall immediately report the harm to the nearest office of the
10 department:

11 (1) practitioners of the healing arts;

12 (2) school teachers and school administrative staff members of public
13 and private schools;

14 (3) social workers;

15 (4) peace officers [,] and officers of the Department of Corrections;

16 (5) administrative officers of institutions;

17 (6) child care providers;

18 (7) paid employees of domestic violence and sexual assault programs,
19 and crisis intervention and prevention programs as defined in AS 18.66.990;

20 (8) paid employees of an organization that provides counseling or
21 treatment to individuals seeking to control their use of drugs or alcohol;

22 **(9) members of a child fatality review team established under**
23 **AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created**
24 **under AS 47.14.300.**

25 * **Sec. 58.** AS 47.17.020 is amended by adding new subsections to read:

26 (h) This section does not require a person required to report child abuse or
27 neglect under (a)(7) of this section to report mental injury to a child as a result of
28 exposure to domestic violence so long as the person has reasonable cause to believe
29 that the child is in safe and appropriate care and not presently in danger of mental
30 injury as a result of exposure to domestic violence.

31 (i) This section does not require a person required to report child abuse or

neglect under (a)(8) of this section to report the resumption of use of an intoxicant as described in AS 47.10.011(10) so long as the person does not have reasonable cause to suspect that a child has suffered harm as a result of the resumption.

* **Sec. 59.** AS 47.17.030(d) is amended to read:

(d) Before the department or a local government health or social services agency may seek the termination of parental rights under **AS 47.10** [AS 47.10.080(c)(3)], it shall offer protective social services and pursue all other reasonable means of protecting the child.

* **Sec. 60.** AS 47.17 is amended by adding a new section to read:

Sec. 47.17.033. Investigations. (a) In investigating child abuse and neglect reports under this chapter, the department may make necessary inquiries about the criminal records of the parents or of the alleged abusive or neglectful person, including inquiries about the existence of a criminal history record involving a serious offense as defined in AS 12.62.900.

(b) For purposes of obtaining access to information needed to conduct the inquiries required by (a) of this section, the department is a criminal justice agency conducting a criminal justice activity.

* **Sec. 61.** AS 47.17.035(b) is amended to read:

(b) If the department determines in an investigation of abuse or neglect of a child that

(1) the child is in danger because of domestic violence or that the child needs protection as a result of the presence of domestic violence in the family, the department shall take appropriate steps for the protection of the child; **in this paragraph, "appropriate steps" includes**

(A) reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is not a domestic violence offender;

(B) reasonable efforts to remove the alleged domestic violence offender from the child's residence if it is determined that the child or another family or household member is in danger of domestic violence; and

(C) services to help protect the child from being placed or

1 having unsupervised visitation with the domestic violence offender until the
 2 department determines that the offender has met conditions considered
 3 necessary by the department to protect the safety of the domestic violence
 4 victim and household members;

5 (2) a person is the victim of domestic violence, the department shall
 6 provide the victim with a written notice of the rights of and services available to
 7 victims of domestic violence that is substantially similar to the notice provided to
 8 victims of domestic violence under AS 18.65.520.

9 * **Sec. 62.** AS 47.17.290(8) is amended to read:

10 (8) "maltreatment" means an act or omission that results in
 11 circumstances in which there is reasonable cause to suspect that a child may be a child
 12 in need of aid, as described in **AS 47.10.011** [AS 47.10.010(a)], except that, for
 13 purposes of this chapter, the act or omission need not have been committed by the
 14 child's parent, custodian, or guardian;

15 * **Sec. 63.** AS 47.17.290(9) is amended to read:

16 (9) "mental injury" means **a serious** [AN] injury to the [EMOTIONAL
 17 WELL-BEING, OR INTELLECTUAL OR PSYCHOLOGICAL CAPACITY OF A]
 18 child [,] as evidenced by an observable and substantial impairment in the child's ability
 19 to function in a developmentally appropriate manner **and the existence of that**
 20 **impairment is supported by the opinion of a qualified expert witness;**

21 * **Sec. 64.** AS 47.35.017(b) is amended to read:

22 (b) An application submitted under this section must contain at least the
 23 following information:

24 (1) the name and address of the applicant [,] and, if the applicant is an
 25 agency, corporation, partnership, association, or any other form of organization, the
 26 name, address, and title of **each individual** [ALL INDIVIDUALS] who **has** [HAVE]
 27 an ownership or management interest in the facility; **if the applicant is an individual,**
 28 **the application must include the name, age, and driver's license number, if any,**
 29 **of each member of the individual's household;**

30 (2) the name, physical location, and mailing address of the facility or
 31 agency for which the license is sought;

(3) the name and address of the administrator of the facility or agency, if any;

(4) evidence that the administrator or foster parent is an adult with sufficient experience, training, or education to fulfill the duties of an administrator or foster parent;

(5) a release for the administrator or foster parent and for each other person **who is 16 years of age or older**, as specified by the department by regulation, who will have contact with individuals served by the facility or agency, authorizing the department to review all federal, state, and municipal **criminal justice information, whether of this state, of a municipality of this state, or of another jurisdiction** [LAW ENFORCEMENT], medical **records**, licensing **records**, and protective services records, identified in regulations adopted under this chapter, that are relevant to the person who is the subject of the release and to the type of license for which the application has been submitted;

(6) **two sets of fingerprints and the social security number of each person required to provide a release under (5) of this subsection in order for the department to submit the fingerprints to the Department of Public Safety for the purpose of conducting state and national criminal background checks from criminal justice information received under AS 12.62 and regulations adopted under AS 12.62; the department may not approve an application under this section until the results of the criminal background check have been submitted to the department;**

(7) for a facility, the number of individuals that will be served in the facility;

(8) [(7)] the type of facility or agency for which the license is sought;

(9) [(8)] copies of all inspection reports and approvals required by state fire prevention and environmental health and safety authorities for operation of the facility or agency, including any variances granted by these authorities;

(10) [(9)] a plan of operation, as required by the department by regulation;

(11) [(10)] a staffing plan that describes the number of people who will

work at the facility or agency, staff qualifications, a description of each person's responsibilities, and, for a facility other than a maternity home, a supervision schedule for the children in care that meets the requirements established by the department by regulation;

(12) evidence that the applicant is capable of meeting the minimum standards of care established by the department under AS 47.14.120;

(13) [(11)] evidence that the applicant has completed orientation or training required by the department, by regulation, for holders of the type of license for which the application was submitted; and

(14) [(12)] other information required by the department, by regulation, in order to monitor compliance with this chapter and regulations adopted under this chapter.

* **Sec. 65.** AS 47.35 is amended by adding a new section to read:

Sec. 47.35.022. Foster care placement. (a) Except as provided in (b) of this section, the department may not place or continue placement of a child for care for payment under AS 47.10 in a foster home that is licensed under this chapter if the department finds that a person for whom fingerprints are required to be submitted for licensure of the foster home is currently under arrest for, charged with, or has been convicted of, or found not guilty by reason of insanity of, a serious offense.

(b) Notwithstanding (a) of this section, the department may place or continue a placement for foster care if the applicant or licensee demonstrates to the satisfaction of the department that the applicant, licensee, or other person committed the conduct described in (a) of this section at least five years before the placement, and the conduct

(1) did not involve a victim who was under 18 years of age at the time the conduct occurred;

(2) was not a crime of domestic violence as defined in AS 18.66.990; and

(3) was not a violent crime under AS 11.41.100 - 11.41.455 or a law or an ordinance of another jurisdiction having similar elements.

(c) The department shall develop procedures for rechecking criminal justice information records for the information described in (a) of this section for persons who

1 are 16 years of age or older who are living in a licensed foster home with access to
2 children placed by the department.

3 * **Sec. 66.** AS 47.35.023(b) is repealed and reenacted to read:

4 (b) Notwithstanding (a) of this section, if an emergency exists and a child must
5 be immediately placed, the department or the department's designee may issue a
6 provisional foster home license on an emergency basis for a period of 90 days or less
7 if the department or the department's designee determines that the applicant meets
8 minimal requirements for emergency conditions and the applicant agrees in writing to
9 provide the fingerprint information described in AS 47.35.017(b) within 30 days of the
10 placement of a child in the foster home. The department may extend a provisional
11 foster home license issued under this subsection for one or two additional periods of
12 up to 90 days each in order to obtain the information from the national criminal
13 background check required under AS 47.35.017(b)(6). The department may not issue
14 a license under this subsection before checking state and national criminal justice
15 information available to the department under AS 12.62 and regulations adopted under
16 AS 12.62 about the administrator or foster parent and each person who is 16 years of
17 age or older in the foster home who will have contact with the child. If the department
18 cannot obtain direct access to the state and federal criminal justice information, the
19 department shall request the agency having primary law enforcement responsibility for
20 the geographic area in which the prospective foster home is located to obtain the
21 information and provide it to the department before the license is issued under this
22 section. If the criminal justice information readily available to the department shows
23 an offense which a person would be required to notify the department under
24 AS 47.35.047(b), the department may not issue the license under this subsection. If the
25 additional criminal justice information available from the fingerprint search or another
26 source after the license is issued reveals that the person has a record for one or more
27 of these offenses, the department shall immediately revoke the license and move the
28 child to an appropriate placement. For purposes of obtaining criminal justice
29 information under this subsection, the department is a criminal justice agency
30 conducting a criminal justice activity under AS 12.62.

31 * **Sec. 67.** AS 47.35.047(b) is amended to read:

(b) A licensee shall notify the department within 24 hours after having knowledge of a conviction or indictment, presentment, or charging by information or complaint of an administrator, foster parent, member of the licensee's household, regular volunteer, or staff person for a violation of the following laws or the laws of another jurisdiction with similar elements:

(1) offenses against the family and vulnerable adults under AS 11.51;

(2) perjury under AS 11.56.200;

(3) offenses included in the definition of "serious offense" under AS 12.62.900 [FELONY, FOR A MISDEMEANOR CRIME OF ASSAULT, RECKLESS ENDANGERMENT, CONTRIBUTING TO THE DELINQUENCY OF A MINOR, OR MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE, FOR THE CRIME OF PERJURY, AS DEFINED IN AS 11 OR THE LAWS OF ANOTHER JURISDICTION, OR FOR A SEX CRIME AS DEFINED IN AS 12.62.035].

* **Sec. 68.** AS 47.35.900 is amended by adding new paragraphs to read:

(20) "criminal justice information" has the meaning given in AS 12.62.900;

(21) "domestic violence" has the meaning given in AS 18.66.990;

(22) "serious offense" has the meaning given in AS 12.62.900.

* **Sec. 69.** AS 47.10.080(k) and 47.10.990(7) are repealed.

* **Sec. 70.** COURT RULE CHANGE. (a) AS 47.10.030(b) and 47.10.070(a), as amended by secs. 21 and 23 of this Act, have the effect of amending Rules 3, 7, 10, 15, and 19, Alaska Child in Need of Aid Rules, by requiring foster parents and other specified persons to have notice and allowing them an opportunity to be heard in child-in-need-of-aid proceedings.

(b) Sections 21 and 23 of this Act take effect only if this section receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

* **Sec. 71.** COURT RULE CHANGE. (a) AS 47.10.080(a), as amended by sec. 24 of this Act, has the effect of amending Rule 15, Alaska Child in Need of Aid Rules, by establishing a timeframe for an adjudication hearing under AS 47.10.

(b) Section 24 of this Act takes effect only if this section receives the two-thirds

1 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

2 * **Sec. 72. COURT RULE CHANGE.** (a) AS 47.10.080(c)(3), as amended by sec. 25 of
3 this Act, has the effect of amending

4 (1) Rule 18(c), Alaska Child in Need of Aid Rules, by changing the burden of
5 proof for termination of parental rights; and

6 (2) Rule 18(e), Alaska Child in Need of Aid Rules, by requiring the Department
7 of Health and Social Services to report quarterly, instead of annually, on its efforts to find a
8 permanent placement for a child.

9 (b) The amendments made to AS 47.10.080(c)(3) by sec. 25 of this Act that change
10 the burden of proof for termination of parental rights and require quarterly reports take effect
11 only if this section receives the two-thirds majority vote of each house required by art. IV,
12 sec. 15, Constitution of the State of Alaska.

13 * **Sec. 73. COURT RULE CHANGE.** (a) To the extent that AS 47.10.080(c)(1) and (2)
14 are amended by sec. 25 of this Act to allow a child's guardian ad litem to petition for an
15 extension of the child's commitment or supervision, those provisions amend Rule 19(e), Alaska
16 Child in Need of Aid Rules, relating to petitions for extensions of commitment or supervision
17 of a child.

18 (b) The amendments described in (a) of this section take effect only if this section
19 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
20 of the State of Alaska.

21 * **Sec. 74. COURT RULE CHANGE; EXPEDITED APPEALS.** (a) AS 47.10.080(i), as
22 amended by sec. 27 of this Act, has the effect of amending Rule 218, Alaska Rules of
23 Appellate Procedure, by requiring that expedited appeals from a judgment or an order under
24 AS 47.10 be decided within a fixed timeframe.

25 (b) Section 27 of this Act takes effect only if this section receives the two-thirds
26 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

27 * **Sec. 75. COURT RULE CHANGE.** (a) AS 47.10.080(f), as amended by sec. 26 of this
28 Act, and AS 47.10.080(l), as amended by sec. 28 of this Act, have the effect of amending Rule
29 19, Alaska Child in Need of Aid Rules, regarding reviews and hearings by the court in child-
30 in-need-of-aid proceedings.

31 (b) Sections 26 and 28 of this Act take effect only if this section receives the two-

1 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
2 Alaska.

3 * **Sec. 76. COURT RULE CHANGE.** (a) AS 47.10.086, enacted in sec. 33 of this Act,
4 has the effect of amending

5 (1) Rule 15, Alaska Child in Need of Aid Rules, regarding timing of hearings;
6 and

7 (2) Rule 15(g), Alaska Child in Need of Aid Rules, regarding the standards for
8 reasonable efforts to be made in child-in-need-of-aid proceedings.

9 (b) AS 47.10.086, enacted in sec. 33 of this Act, takes effect only if this section
10 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
11 of the State of Alaska.

12 * **Sec. 77. COURT RULE CHANGE.** (a) AS 47.10.088(j) and (k), enacted in sec. 33 of
13 this Act, have the effect of changing Rule 18, Alaska Child in Need of Aid Rules, by requiring
14 the court to

15 (1) hold a termination of parental rights trial no later than six months from the
16 date the petition is filed unless good cause is shown; and

17 (2) issue an order on the petition to terminate parental rights and responsibilities
18 within a specified timeframe.

19 (b) AS 47.10.088(j) and (k), enacted in sec. 33 of this Act, take effect only if this
20 section receives the two-thirds majority vote of each house required by art. IV, sec. 15,
21 Constitution of the State of Alaska.

22 * **Sec. 78. COURT RULE CHANGE.** (a) AS 47.10.090(e), as amended by sec. 34 of this
23 Act, and AS 47.10.092(a), as amended by sec. 35 of this Act, amend Rule 22, Alaska Child
24 in Need of Aid Rules, regarding access to, and disclosure of, confidential information
25 pertaining to child-in-need-of-aid proceedings.

26 (b) Sections 34 and 35 of this Act take effect only if this section receives the two-
27 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
28 Alaska.

29 * **Sec. 79. APPLICABILITY.** (a) The amendments made in secs. 3 - 7 of this Act apply
30 to offenses committed on or after the effective date of this Act, except that references in secs.
31 3 - 7 of this Act to previous convictions include convictions occurring before, on, or after the

1 effective date of this Act.

2 (b) Except as provided in secs. 80 and 81 of this Act and (a) of this section, this Act
3 applies to

4 (1) a case or proceeding that is filed with the court on or after the effective date
5 of this Act;

6 (2) an action taken under AS 47.10, AS 47.12, AS 47.17, or AS 47.35 on or
7 after the effective date of this Act; and

8 (3) a motion that is filed with the court on or after the effective date of this Act
9 in a case or proceeding that was pending in the court before the effective date of this Act.

10 (c) The provisions of (b) of this section do not preclude consideration of evidence of
11 conduct or omission of a person that brings a child under the jurisdiction of AS 47.10 or
12 AS 47.12.

13 * **Sec. 80. TRANSITIONAL PROVISION; FOSTER CARE LICENSING.** (a) Unless the
14 information has been previously submitted to the Department of Health and Social Services,
15 an application for biennial renewal of a foster care license under AS 47.35 must include the
16 information required under AS 47.35.017(b), as amended by sec. 64 of this Act.

17 (b) The Department of Health and Social Services may require, as a condition of
18 continued licensure, that a foster care licensee under AS 47.35 submit the additional
19 information required under AS 47.35.017(b), as amended by sec. 64 of this Act, before the
20 licensee is required to submit the additional information under (a) of this section.

21 * **Sec. 81. TRANSITIONAL PROVISION; DISCLOSURE OF AGENCY RECORDS.** (a)
22 The Department of Health and Social Services may disclose information and make copies of
23 documents available to state officials or employees as authorized under AS 47.10.092(a), as
24 amended by sec. 35 of this Act, based on an appropriate request that was received before, on,
25 or after the effective date of this Act.

26 (b) The Department of Health and Social Services, a parent, or a legal guardian may
27 disclose information as authorized under AS 47.10.092(a), as amended by sec. 35 of this Act,
28 regardless of when the information came into the possession or knowledge of the department,
29 parent, or legal guardian and regardless of when the conduct or situation described in the
30 information occurred.