

CS FOR HOUSE BILL NO. 392(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/3/00

Referred: Judiciary

Sponsor(s): REPRESENTATIVES WHITAKER, Dyson, Croft, Cissna, James

SENATORS Halford, Taylor, Leman, Ward

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to continuances for temporary custody hearings that follow
2 emergency custody of a child; and amending Rule 10, Alaska Child in Need of
3 Aid Rules."

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

5 * Section 1. AS 47.10.142(d) is amended to read:

6 (d) The court shall immediately, and in no event more than 48 hours after
7 being notified unless prevented by lack of transportation, hold a **temporary custody**
8 hearing at which the **child** [MINOR], if the **child's** [MINOR'S] health permits, and the
9 **child's** [MINOR'S] parents or guardian, if they can be found, shall be permitted to be
10 present. **If present at the hearing, a parent or guardian of the child may request**
11 **a continuance of the hearing for the purpose of preparing a response to the**
12 **allegation that the child is a child in need of aid. The court may grant the**
13 **request on a showing of good cause for why the parent or guardian is not**
14 **prepared to respond to the allegation. During a continuance, the child remains**

in the emergency custody of the department. When the temporary custody hearing is held, the [THE] court shall determine whether probable cause exists for believing the child [MINOR] to be a child in need of aid, as defined in AS 47.10.990. The court shall inform the child [MINOR], and the child's [MINOR'S] parents or guardian if they can be found, of the reasons given as constituting probable cause and the reasons given as authorizing the child's [MINOR'S] temporary placement.

* **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 10(a), Alaska Child in Need of Aid Rules, is amended to read:

(a) **Time of Hearing.** At the request of the petitioner, the court shall schedule a temporary custody hearing:

(1) within 48 hours, including weekends and holidays, of when the court is notified by the filing of a petition that emergency custody was taken pursuant to CINA Rule 6(a) or (b); on request of a parent or guardian who is present at the hearing and a showing of good cause for why the parent or guardian is not prepared to respond to the petition, the court may grant a continuance of the hearing; or

(2) within a reasonable time following the filing of a petition when emergency custody has not been taken.

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

DIRECT COURT RULE AMENDMENT. Rule 10(b)(2), Alaska Child in Need of Aid Rules, is amended to read:

(2) **Advice of Rights.** The court shall advise the parties of their right to counsel, including the right to court-appointed counsel if applicable; the child's right to a guardian ad litem; their right to a hearing at which the state is required to present evidence to prove the allegations in its petition; their right to confront and cross-examine witnesses at such a hearing, to present witnesses on their own behalf, and to compulsory process to compel these witnesses to attend; and their privilege against self-incrimination. In cases involving an Indian child, the court shall also advise the

1 parties of an Indian custodian's or tribe's right to intervene. **If the hearing is being**
2 **held because emergency custody was taken pursuant to CINA Rule 6(a) or (b), the**
3 **court shall also advise the child's parents or guardian, if they are present at the**
4 **hearing, that they each have the right to request a continuance of the hearing if**
5 **they are not prepared to respond to the allegation that the child is a child in need**
6 **of aid.**

7 * **Sec. 4.** The uncoded law of the State of Alaska is amended by adding a new section
8 to read:

9 INDIRECT COURT RULE AMENDMENT. AS 47.10.142(d), as amended by sec. 1
10 of this Act, amends Rule 10, Alaska Child in Need of Aid Rules, by providing for a
11 continuance of a temporary custody hearing that follows emergency custody of a child.

12 * **Sec. 5.** The uncoded law of the State of Alaska is amended by adding a new section
13 to read:

14 APPLICABILITY. This Act applies to circumstances in which emergency custody of
15 a child is taken by the state on or after the effective date of this Act.