



LAWS OF ALASKA

1990

Source

CSHB 19(Fin)

Chapter No.

117

AN ACT

Relating to citizen review panels for certain children in state custody; court review of cases relating to children; establishing the Citizens' Review Panel for Permanency Planning; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 12

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 14, 1990
Actual Effective Date: July 1, 1990

Relating to citizen review panels for certain children
in state custody; court review of cases relating to
children; establishing the Citizens' Review Panel for
Permanency Planning; and providing for an effective date.

AN ACT

* Section 1. FINDINGS AND PURPOSE. The legislature finds that there is
a need in the state for a citizen review process for the cases of children
in state custody who are in either foster care or other out-of-home place-
ment. The purpose of this Act is to establish a citizen review process in
order to ensure that children do not linger unnecessarily in out-of-home
placements, but rather that they receive the support and benefits of a
permanent home. The goal of this Act is to reunite the children with their
families by ensuring that services are available and appropriate for re-
unification, and if reunification is not in the best interests of the
child, to expeditiously place the child in a secure, permanent home.
* Sec. 2. AS 47.10 is amended by adding new sections to read:

ARTICLE 6. CITIZENS' REVIEW PANEL FOR PERMANENCY PLANNING.

Sec. 47.10.400. CITIZENS' REVIEW PANEL FOR PERMANENCY PLANNING.

(a) There is created in the Department of Administration the Cit-
izens' Review Panel for Permanency Planning. The state panel consists
of five voting members appointed by the governor from among present
members of local citizen review panels established under AS 47.10.420.
The governor shall appoint at least one voting state panel member from

1 each judicial district. The governor may not appoint a person who has
 2 committed a felony or violated AS 11.51.130 or a law with substantial-
 3 ly similar elements. The panel also includes the following five
 4 nonvoting members who serve ex officio or their designees: the com-
 5 missioner of health and social services, the director of the office of
 6 public advocacy, the attorney general, the public defender appointed
 7 under AS 18.85.030, and the chief justice of the Alaska Supreme Court.

8 (b) Appointed members of the state panel serve at the pleasure
 9 of the governor for staggered terms of three years or until their
 10 successors are appointed.

11 (c) The voting members of the state panel shall elect from among
 12 the voting members a chair who shall serve for one year. Three voting
 13 members of the state panel constitute a quorum for the transaction of
 14 business. The panel may not take official action without the affirma-
 15 tive vote of at least three of its members.

16 (d) Members of the state panel are entitled to reimbursement for
 17 actual expenses necessary to perform their duties as state panel
 18 members. The reimbursement may not exceed the amount of per diem and
 19 expenses authorized for boards and commissions under AS 39.20.180.

20 (e) The state panel shall meet twice annually. Meetings may
 21 take place telephonically.

22 (f) The state panel may employ a program coordinator who shall
 23 serve at the pleasure of the state panel. The program coordinator
 24 shall employ staff as necessary to carry out the program coordinator's
 25 duties under state panel directives and to provide clerical assistance
 26 to local panels.

27 Sec. 47.10.410. DUTIES OF THE STATE PANEL. The state panel
 28 shall

29 (1) by regulation adopt policies and procedures to carry

1 out its duties and to govern the performance of the duties of the
 2 local panels established under AS 47.10.420;

3 (2) ensure that local panel members receive the minimum
 4 level of training necessary to effectively carry out their duties;

5 (3) coordinate and review the activities of the local
 6 panels and make recommendations to the governor on appointments to the
 7 local panels;

8 (4) report annually to the legislature by the 10th day of
 9 each regular session, concerning the activities of the state and local
 10 panels during the previous fiscal year; the report must include the
 11 number of cases reviewed by each local panel, a description of the
 12 characteristics of the children whose cases were reviewed by the
 13 panels, the number of children reunited with their families, the
 14 number of children placed in other permanent homes, and recommenda-
 15 tions and justifications for program improvement, including recommen-
 16 dations relating to state agencies and to the panel review system; the
 17 report may contain other information on the experience of the local
 18 panels.

19 Sec. 47.10.420. APPOINTMENT OF LOCAL PANELS. (a) The governor
 20 shall appoint for each judicial district a local citizen out-of-home
 21 care review panel composed of five members and two alternates who are
 22 residents of the judicial district. Members shall serve three-year
 23 terms except that when a local panel is initially appointed, two
 24 members shall be appointed for three-year terms, two members for
 25 two-year terms, and one member for a one-year term. Alternates shall
 26 be appointed to three-year terms.

27 (b) The governor shall appoint to a local panel persons who have
 28 training, experience, special knowledge, or a demonstrated interest in
 29 the welfare of children. An out-of-home care provider or a person

employed by the court system, the department, the office of public advocacy, the Public Defender Agency, or the Department of Law may not serve as a member or alternate member of a local panel. The governor may not appoint a person who has committed a felony or violated AS 17.51.130 or a law with substantially similar elements.

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

(d) If the state panel determines that additional local panels are necessary in a judicial district because of excessively large or complex caseloads for review or because of the demographics of cases, or determines that a local panel is not necessary because of a reduced caseload, the governor may create or dissolve a local panel. The governor may not reduce the number of panels in a judicial district to fewer than one. Appointments to a panel established under this subsection are governed by (a) - (c) of this section.

(e) When a person is appointed to serve on a local panel, the person shall swear or affirm to keep confidential all information that comes before the local panel except for nonidentifying case information included in a report to the state panel, information for reports required under AS 47.17, or as required by court order for good cause shown. A local panel member may also share confidential information with other members of the local panel and staff who serve the local panel.

Sec. 47.10.430. MEETINGS; EXPENSES. (a) A local panel shall conduct its meetings in the judicial district in which its members reside.

(b) The local panel shall elect one of its members to serve as chair for a term of one year.

(c) A majority of the members of a local panel constitutes a quorum. A panel may not take official action without the affirmative vote of at least three of its members.

(d) A local panel member is not eligible for travel expenses, per diem, or other expenses for service on the local panel unless the state panel requires a local panel member to travel to attend a meeting. If the state panel requires a local panel member to travel to attend a meeting, the local panel member is entitled to reimbursement for actual expenses incurred by the member in attending the meeting, except that the reimbursement may not exceed the amount of per diem and expenses authorized for boards and commissions under AS 39.20.180.

Sec. 47.10.440. DUTIES OF LOCAL PANEL. (a) A local panel shall review the case plan of each child in the custody of the department who is in a placement other than the child's own home under AS 47.10.080(b)(3), (c)(1), or (c)(3), 47.10.142, or 47.10.230(c) if the case is under the jurisdiction of a court in the judicial district served by the panel. A local panel may request a local panel in another judicial district to conduct a review and make a report if that local panel is more convenient for the child and other persons involved.

(b) The local panel shall review a case as required under 42 U.S.C. 671 - 675 (P.L. 96-272) within 180 days after the day the child is initially removed from the child's home and every six months thereafter. A court review may be substituted for a review required under this subsection if the court review meets the requirements of this subsection.

(c) At least 30 days before it begins a review, the local panel shall provide written notice to the following persons that a review will be conducted and that each person notified may participate in the

review:

- (1) the department;
- (2) the child or the child's legal representative;
- (3) the child's parents;
- (4) the child's guardian;
- (5) the child's guardian ad litem;
- (6) the child's out-of-home care provider; and
- (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act),
 - (A) the child's Indian custodian; and
 - (B) the designated representative of the child's Indian tribe if the tribe has intervened in the case.

(d) In reviewing a case, the local 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 panel shall also provide to the following persons an opportunity to be interviewed by the panel in person or by telephone or to provide written material to the panel:

- (1) the child whose case is being reviewed if the child is 10 years of age or older;
- (2) the parents, custodians, or other relatives of the child;
- (3) the child's out-of-home care provider;
- (4) the child's guardian;
- (5) the child's guardian ad litem;
- (6) the case worker or social worker assigned to the case;
- (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act),
 - (A) the child's Indian custodian; and

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

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

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

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

- (1) determine whether the child has a case plan designed to achieve placement in the least restrictive, most family-like setting available in close proximity to the home of the child's parents that is consistent with the best interests of and special needs and circumstances of the child;
- (2) evaluate the continuing necessity and appropriateness of the child's placement, the extent of the compliance with the child's case plan, and the extent of progress that has been made toward mitigating the causes that necessitated placement away from the child's parents;
- (3) ascertain the date by which it is likely the child may be returned to the home or placed for adoption or legal guardianship;
- (4) determine whether there has been compliance with applicable provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act)

and other applicable state and federal laws; and

(5) determine whether there has been compliance with court review requirements of AS 47.10.080(F) and (1) and 47.10.142(n).

(g) The local panel shall within 30 days after reviewing the case submit a written report to the persons listed in (c) of this section.

(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 panel shall submit its report at least 20 days before the hearing.

(i) The local panel shall report to the state panel information needed by the state panel to prepare the report required under AS 47.10.410.

Sec. 47.10.450. COOPERATION WITH STATE AND LOCAL PANELS. The department, Department of Law, public defender, office of public advocacy, and court system shall cooperate with the state panel and the local panels to facilitate timely review of plans for children whose cases are under the jurisdiction of the panels.

Sec. 47.10.460. RECORDS; COMMUNICATIONS. (a) Notwithstanding AS 47.10.090, at the request of a local panel, the department, the child's guardian ad litem, and the court shall furnish to the local panel relevant records concerning a child and the child's family who are the subjects of a local panel review. At the conclusion of a review, all copies of records provided to a local panel under this section shall be returned to the staff that serves the local panel or to the agency from which the original copy was obtained unless the panel members need the copies to prepare the reports required under

AS 47.10.440(g) - (i). Copies retained for preparation of the reports shall be returned to the staff that serves the local panel or to the originating agency upon completion of the reports. Notwithstanding AS 44.62.310, records and reports of the local panel, testimony before the local panel, and deliberations of the local panel are confidential under AS 47.10.090.

(b) A local panel member may not reveal to another person, other than another member of the local panel or the staff serving the local panel, a communication made to the member while performing the member's duties under AS 47.10.400 - 47.10.490 except as required under AS 47.17 or as required by court order for good cause shown. A local panel member may share with the state panel communications made during the local panel member's performance of official duties if the local panel member omits identifying information.

(c) A local panel proceeding is not governed by AS 44.62.310. Sec. 47.10.470. COURT REVIEW OF REPORT. (a) When a report is admissible under court rules, the court may consider the report of the local panel in its review under AS 47.10.080(F) and at other disposition hearings other than hearings related to delinquency proceedings.

(b) The court may refer to the local panel a case called for a special review under AS 47.10.080(F).

Sec. 47.10.480. INDEMNIFICATION OF PANEL MEMBERS. A state panel member and a local panel member shall be indemnified by the state for civil liability for a negligent act or omission of the panel member that occurs in the performance of the member's duties under AS 47.10.400 - 47.10.490 unless the civil liability results from the panel member's violation of

- (1) AS 47.10.460(b); or
(2) the oath or affirmation required under AS 47.10.420(e).

Sec. 47.10.490. DEFINITIONS. In AS 47.10.400 - 47.10.490

(1) "local panel" means a local citizen out-of-home care review panel appointed under AS 47.10.420;

(2) "out-of-home care provider" means an agency or a person, other than the child's legal parents, with whom the child is currently placed and who is in the custody of the state under AS 47.10.080(b)(3), (c)(1), or (c)(3), 47.10.142, or 47.10.230(c), including a foster parent, a relative other than a parent, a person who has petitioned for adoption of the child, or a residential child care facility;

(3) "state panel" means the Citizens' Review Panel for Permanency Planning established under AS 47.10.400.

* Sec. 3. AS 44.66.010(a) is amended by adding a new paragraph to read:

(17) Citizens' Review Panel for Permanency Planning under AS 47.10.400 -- June 30, 1994.

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

(F) A minor found to be delinquent or 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 minor's actions. The court shall review an order made under (b) or (c)(1) or (2) of this section annually, and may review the order more frequently to determine if continued placement, probation, or supervision, as it is being provided, is in the best interest of the minor and the public. If annual review under this subsection would arise within 90 days of the hearing

required under (1) of this section, the court may postpone review under this subsection until the time set for the hearing. The department, the minor, the minor's parents, guardian, or custodian are entitled, when good cause is shown, to a review on application. If the application is granted, the court shall afford these parties and

their counsel reasonable notice in advance of the review and hold a hearing where these parties and their counsel shall be afforded an opportunity to be heard. The minor shall be afforded the opportunity to be present at the review.

* Sec. 5. AS 47.10.080 is amended by adding new subsections to read:

(1) Within 18 months after the date a child is initially taken into custody by the department under AS 47.10.142(c) or committed to the custody of the department under (b)(3), (c)(1), or (c)(3) of this section, or 47.10.230(c), the court shall hold a hearing to review the placement and services provided and to determine the future status of the minor. The court shall make appropriate written findings, including findings related to the following:

(1) whether the child should be returned to the parent;

(2) whether the child should remain in out-of-home care for a specified period;

(3) whether the child should remain in out-of-home care on a permanent or long-term basis because of special needs or circumstances;

(4) whether the child should be placed for adoption or legal guardianship.

(m) Within 60 days after the date a child is removed from the child's home by the department, the department shall notify the appropriate local citizen out-of-home care review panel established under AS 47.10.420.

(n) Within 60 days after a court orders a child committed to the department under (c) of this section and at a review under (f) or (1) of this section, the department shall inform the parties about the local citizen out-of-home care review panel established under AS 47.10.420.



LAWS OF ALASKA

1990

Source

CSHB 48(Fin)

Chapter No.

118

AN ACT

Relating to reduced rates and discounted local exchange telecommunication service for low-income individuals.

Chapter 117

* Sec. 6. AS 47.10.142 is amended by adding new subsections to read:

(g) Within 60 days after a court orders a child committed to the department under this section, the department shall inform the parties about the local citizen out-of-home care review panel established under AS 47.10.420.

(h) Within 18 months after a minor is committed to the department under this section, the court shall review the placement plan and actual placement of the minor under AS 47.10.080(1).

* Sec. 7. Notwithstanding AS 47.10.400, enacted by sec. 2 of this Act, the governor shall appoint the initial public members of the Citizens' Review Panel for Permanency Planning so that one serves a one-year term, two serve two-year terms, and two serve three-year terms. The initial public members must be persons who have training, experience, special knowledge, or a demonstrated interest in the welfare of children.

* Sec. 8. This Act takes effect July 1, 1990.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 14, 1990
Actual Effective Date: September 12, 1990