

SENATE BILL NO. 122
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATOR COGHILL

Introduced: 5/17/17

Referred: Health and Social Services, Judiciary, Finance

A BILL
FOR AN ACT ENTITLED

1 **"An Act repealing the authority for a child abuse or neglect citizen review panel in the**
2 **Department of Health and Social Services; and establishing the Child Protection Citizen**
3 **Review Panel in the office of the ombudsman."**

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

5 * **Section 1.** AS 24.55 is amended by adding new sections to read:

6 **Article 7. Child Protection Citizen Review Panel.**

7 **Sec. 24.55.400. Child Protection Citizen Review Panel.** (a) The Child
8 Protection Citizen Review Panel is established. For budgetary purposes, the panel is
9 located in the office of the ombudsman. The office of the ombudsman shall provide
10 reasonable and necessary professional and technical assistance when requested by the
11 panel.

12 (b) The purpose of the panel is to facilitate public participation in developing
13 and implementing the state's child protection policies and practices. In performing its
14 duties under AS 24.55.405, the panel shall make diverse opportunities for voluntary

1 participation available to the public.

2 (c) The panel shall be composed of volunteer members who are broadly
3 representative of the state, including at least one member from each of the
4 administrative regions established by the division of the department with
5 responsibility over the custody of children. The panel must include members who have
6 expertise in the prevention and treatment of child abuse and neglect legal proceedings
7 in child-in-need-of-aid cases, cultural and social norms related to child abuse and
8 neglect, administration of child protection services in the state, and the perspectives of
9 foster children, foster parents, and parents whose children are in foster care. Current
10 staff of the division of the department with responsibility over the custody of children
11 are not eligible to serve on the panel. The panel shall solicit and accept applications
12 from prospective members and appoint new members as necessary. The members of
13 the panel shall select a chair and a vice-chair from among the members.

14 (d) The panel shall meet not less than once every three months. Meetings may
15 take place telephonically.

16 (e) The panel shall establish guidelines for the operation of the panel. The
17 guidelines must describe

18 (1) the leadership structure of the panel, including the role of the chair
19 and vice-chair;

20 (2) policies for recruitment and retention of members;

21 (3) tenure of members and leadership;

22 (4) the annual calendar of the panel;

23 (5) roles and responsibilities of members;

24 (6) responsibilities of any employees or contractors of the panel;

25 (7) data management and records management policies; and

26 (8) necessary protocols to perform the duties of the panel provided
27 under AS 24.55.405.

28 **Sec. 24.55.405. Duties of the panel.** (a) Each year, the panel shall examine the
29 policies, procedures, and practices of the department and, where appropriate, evaluate
30 specific cases of child abuse or neglect to determine whether the department is
31 effectively discharging its child protection responsibilities in accordance with the

1 following planning documents submitted to the United States Department of Health
2 and Human Services:

3 (1) the state plan required under 42 U.S.C. 5106a(b); and

4 (2) the state child welfare and family services plans and reports
5 required under 42 U.S.C. 621 - 629m.

6 (b) The panel may recommend and advocate for changes to the department's
7 child protection policies, procedures, and practices and for changes in conditions that
8 may enable the department to improve its child protection policies, procedures, and
9 practices.

10 **Sec. 24.55.410. Duties of the department.** The department shall

11 (1) consult with the panel periodically, through the director or a
12 designee of the director and other program managers of the division of the department
13 with responsibility over the custody of children, to assist the panel in performing its
14 duties under AS 24.55.405;

15 (2) establish procedures for sharing with the panel administrative and
16 case-specific information that is necessary for the panel to perform its duties under
17 AS 24.55.405(a);

18 (3) coordinate community engagement activities, including outreach
19 efforts related to the preparation of the state child and family services plan required
20 under 45 C.F.R. 1357.15 and annual progress and services reports required under 45
21 C.F.R. 1357.16, with the panel's activities under AS 24.55.420; and

22 (4) assist the panel in coordinating the activities of the panel with the
23 activities of the state task force established under 42 U.S.C. 5106c.

24 **Sec. 24.55.415. Confidentiality.** (a) A person attending a meeting of the panel,
25 the ombudsman, an employee of the office of the ombudsman, or a member or staff of
26 the panel may not make any disclosure related to information obtained during a review
27 by the panel unless authorized under federal or state law.

28 (b) Meetings of the panel are subject to AS 44.62.310 - 44.62.319 (Open
29 Meetings Act).

30 **Sec. 24.55.420. Public outreach.** The panel shall conduct public outreach and
31 gather public comment on current department procedures and practices involving

1 children and family services.

2 **Sec. 24.55.425. Report.** (a) The panel shall prepare and make available to the
3 governor, the legislature, and the public an annual report containing a summary of the
4 activities of the panel conducted under AS 24.55.400 - 24.55.440 and
5 recommendations for the improvement of child protection services in the state. The
6 panel shall deliver the report to the senate secretary and the chief clerk of the house of
7 representatives and notify the legislature that the report is available.

8 (b) Not later than six months after the date on which the report is released
9 under (a) of this section, the department shall submit a written response to the report.
10 The department's response must include a description of whether and how the
11 department will incorporate the recommendations of the panel, where appropriate.

12 (c) At the end of the third year after the effective date of this Act, and every
13 three years thereafter, the panel and the division of the department with responsibility
14 over the custody of children shall complete a joint evaluation report and make the
15 report available to the governor, the legislature, and the public. The report must
16 include an assessment of the performance of the staff of the panel, the panel's
17 activities, and the responsiveness of the division, and an evaluation of any associated
18 constraints or opportunities. The panel shall deliver the report to the senate secretary
19 and the chief clerk of the house of representatives and notify the legislature that the
20 report is available.

21 **Sec. 24.55.430. Civil penalty for violation of confidentiality.** A person who
22 violates confidentiality under AS 24.55.415 is subject to a civil penalty of up to \$2,500
23 for each violation and may also be subject to criminal prosecution under
24 AS 11.76.115.

25 **Sec. 24.55.435. Immunity.** A member of the panel or a person who furnishes
26 services to or advises the panel is not liable for damages or other relief in an action
27 involving the performance or failure to perform a duty or other activity of the panel.

28 **Sec. 24.55.440. Definitions.** In AS 24.55.400 - 24.55.440,

- 29 (1) "department" means the Department of Health and Social Services;
30 (2) "panel" means the Child Protection Citizen Review Panel
31 established under AS 24.55.400.

1 * Sec. 2. AS 47.10.093(b) is amended to read:

2 (b) A state or municipal agency or employee shall disclose appropriate
3 confidential information regarding a case to

4 (1) a guardian ad litem appointed by the court;

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

9 (3) an out-of-home care provider as necessary to enable the out-of-
10 home care provider to provide appropriate care to the child, to protect the safety of the
11 child, and to protect the safety and property of family members and visitors of the out-
12 of-home care provider;

13 (4) a school official as necessary to enable the school to provide
14 appropriate counseling and support services to a child who is the subject of the case, to
15 protect the safety of the child, and to protect the safety of school students and staff;

16 (5) a governmental agency as necessary to obtain that agency's
17 assistance for the department in its investigation or to obtain physical custody of a
18 child;

19 (6) a law enforcement agency of this state or another jurisdiction as
20 necessary for the protection of any child or for actions by that agency to protect the
21 public safety;

22 (7) a member of a multidisciplinary child protection team created
23 under AS 47.14.300 as necessary for the performance of the member's duties;

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

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

29 (10) the child support services agency established in AS 25.27.010 as
30 necessary to establish and collect child support for a child who is a child in need of aid
31 under this chapter;

(11) a parent, guardian, or caregiver of a child or an entity responsible for ensuring the safety of children as necessary to protect the safety of a child;

(12) a review panel established under AS 24.55.400 [BY THE DEPARTMENT] for the purpose of reviewing the actions taken by the department in a specific case;

(13) the University of Alaska under the Alaska higher education savings program for children established under AS 47.14.400, but only to the extent that the information is necessary to support the program and only if the information released is maintained as a confidential record by the University of Alaska;

(14) a child placement agency licensed under AS 47.32 as necessary to provide services for a child who is the subject of the case; and

(15) a state or municipal agency of this state or another jurisdiction that is responsible for delinquent minors, as may be necessary for the administration of services, protection, rehabilitation, or supervision of a child or for actions by the agency to protect the public safety; however, a court may review an objection made to a disclosure under this paragraph; the person objecting to the disclosure bears the burden of establishing by a preponderance of the evidence that disclosure is not in the child's best interest.

* Sec. 3. AS 47.14.205, 47.14.215, 47.14.225, 47.14.235, 47.14.245, 47.14.255, 47.14.265, 47.14.275, and 47.14.295 are repealed.

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

DEPARTMENT OF HEALTH AND SOCIAL SERVICES: REPORT REGARDING CHILD PROTECTION OVERSIGHT. The Department of Health and Social Services shall complete a report identifying existing processes for reviewing and overseeing the work of the division of the department with responsibility over the custody of children and outlining a plan to reduce duplication and improve coordination among entities responsible for the identified processes. Not later than two years after the effective date of this Act, the Department of Health and Social Services shall deliver the report to the senate secretary and the chief clerk of the house of representatives, notify the legislature that the report is available, and make the report available to the governor and the public.

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

3 TRANSITION: REGULATIONS. The office of the ombudsman may adopt
4 regulations necessary to implement the changes made by this Act. The regulations take effect
5 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
6 implemented by the regulation.

7 * **Sec. 6.** The uncoded law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION: MEMBERS OF THE CHILD PROTECTION CITIZEN REVIEW
10 PANEL. A person who is a member of the Citizen Review Panel under former AS 47.14.205,
11 repealed in sec. 3 of this Act, on the effective date of this Act may continue to serve on the
12 Child Protection Citizen Review Panel under AS 24.55.400, established in sec. 1 of this Act.
13 A person who is an officer of the Citizen Review Panel under former AS 47.14.205, repealed
14 in sec. 3 of this Act, on the effective date of this Act may serve the remainder of the officer's
15 term on the Child Protection Citizen Review Panel under AS 24.55.400, established in sec. 1
16 of this Act.