

30-LS0047\O
Laffen
3/15/18

CS FOR SENATE BILL NO. 122(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR COGHILL

A BILL

FOR AN ACT ENTITLED

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

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

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

Article 7. Child Protection Citizen Review Panel.

Sec. 24.55.400. Child Protection Citizen Review Panel. (a) The Child Protection Citizen Review Panel is established in the office of the ombudsman. The office of the ombudsman shall provide reasonable and necessary professional and technical assistance when requested by the panel.

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

(c) The panel shall be composed of volunteer members who are broadly representative of the state, including at least one member from each of the administrative regions established by the division of the department with responsibility over the custody of children.

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

(e) The office of the ombudsman shall adopt regulations establishing guidelines for the operation of the panel, including

- (1) the qualifications of members;
- (2) policies for recruitment and appointment of members;
- (3) tenure of members; and
- (4) policy for selection of leadership.

Sec. 24.55.405. Duties of the panel. (a) Each year, the panel shall examine the policies, procedures, and practices of the department and, where appropriate, evaluate specific cases of child abuse or neglect to determine whether the department is effectively discharging its child protection responsibilities in accordance with the following planning documents submitted to the United States Department of Health and Human Services:

- (1) the state plan required under 42 U.S.C. 5106a(b); and
- (2) the state child welfare and family services plans and reports required under 42 U.S.C. 621 - 629m.

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

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

- (1) consult with the panel periodically, through the director or a designee of the director and other program managers of the division of the department with responsibility over the custody of children, to assist the panel in performing its duties under AS 24.55.405;
- (2) establish procedures for sharing with the panel administrative and

case-specific information that is necessary for the panel to perform its duties under AS 24.55.405(a);

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

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

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

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

Sec. 24.55.420. Public outreach. The panel shall conduct public outreach and gather public comment on current department procedures and practices involving children and family services.

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

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

(c) At the end of the third year after the effective date of this section, and every three years thereafter, the panel and the division of the department with responsibility over the custody of children shall complete a joint evaluation report and make the report available to the governor, the legislature, and the public. The report

1 must include an assessment of the performance of the staff of the panel, the panel's
2 activities, and the responsiveness of the division, and an evaluation of any associated
3 constraints or opportunities. The panel shall deliver the report to the senate secretary
4 and the chief clerk of the house of representatives and notify the legislature that the
5 report is available.

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

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

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

14 (1) "department" means the Department of Health and Social Services;

15 (2) "panel" means the Child Protection Citizen Review Panel
16 established under AS 24.55.400.

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

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

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

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

25 (3) an out-of-home care provider as necessary to enable the out-of-
26 home care provider to provide appropriate care to the child, to protect the safety of the
27 child, and to protect the safety and property of family members and visitors of the out-
28 of-home care provider;

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

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

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

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

(8) the state medical examiner under AS 12.65 as 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;

(10) the child support services agency established in AS 25.27.010 as necessary to establish and collect child support for a child who is a child in need of aid 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

1 a disclosure under this paragraph; the person objecting to the disclosure bears the
2 burden of establishing by a preponderance of the evidence that disclosure is not in the
3 child's best interest; **and**

4 **(16) the office of the ombudsman.**

5 * **Sec. 3.** AS 47.14.205, 47.14.215, 47.14.225, 47.14.235, 47.14.245, 47.14.255, 47.14.265,
6 47.14.275, and 47.14.295 are repealed.

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

9 DEPARTMENT OF HEALTH AND SOCIAL SERVICES: REPORT REGARDING
10 CHILD PROTECTION OVERSIGHT. The Department of Health and Social Services shall
11 complete a report identifying existing processes for reviewing and overseeing the work of the
12 division of the department with responsibility over the custody of children and outlining a
13 plan to reduce duplication and improve coordination among entities responsible for the
14 identified processes. Not later than two years after the effective date of sec. 1 of this Act, the
15 Department of Health and Social Services shall deliver the report to the senate secretary and
16 the chief clerk of the house of representatives, notify the legislature that the report is
17 available, and make the report available to the governor and the public.

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

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

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

26 TRANSITION: MEMBERS OF THE CHILD PROTECTION CITIZEN REVIEW
27 PANEL. A person who is a member of the Citizen Review Panel under former AS 47.14.205,
28 repealed in sec. 3 of this Act, on the effective date of sec. 3 of this Act may continue to serve
29 on the Child Protection Citizen Review Panel under AS 24.55.400, established in sec. 1 of
30 this Act. A person who is an officer of the Citizen Review Panel under former AS 47.14.205,
31 repealed in sec. 3 of this Act, on the effective date of sec. 3 of this Act may serve the

1 remainder of the officer's term on the Child Protection Citizen Review Panel under
2 AS 24.55.400, established in sec. 1 of this Act.

3 * **Sec. 7.** Section 5 of this Act takes effect immediately under AS 01.10.070(c).