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Bergerud
4/5/25

CS FOR SENATE BILL NO. 88(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR BJORKMAN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to placement of a child in need of aid; relating to adoption; relating to**
2 **variances for foster care licenses; relating to the medical records of children in foster**
3 **care; and providing for an effective date."**

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

5 * **Section 1.** AS 47.10.080(s) is amended to read:

6 (s) The department may transfer a child, in the child's best interests, from one
7 placement setting to another, and the child, the child's parents or guardian, the child's
8 foster parents or out-of-home caregiver, the child's guardian ad litem, the child's
9 attorney, and the child's tribe are entitled to advance notice of a nonemergency
10 transfer. A party or child's foster parent with whom the child has resided for at
11 least 18 months who is opposed to the proposed transfer may request a hearing and
12 must prove by clear and convincing evidence that the transfer would be contrary to the
13 best interests of the child for the court to deny the transfer. A foster parent may
14 obtain, at the foster parent's cost, a medical or psychological evaluation of the

child for the purpose of providing evidence at the hearing. A foster parent who requests a hearing to oppose a proposed transfer under this subsection does not become a party to the case. 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. When the department transfers a child from one out-of-home placement to another, the department shall search **as provided under AS 47.10.145** for an appropriate placement with an adult family member or a family friend who meets the foster care licensing requirements established by the department. A supervisor at the department shall certify in writing in the case file whether the department has searched for an appropriate placement with an adult family member or family friend. If the department has not complied with the search requirements under this subsection, the supervisor shall work to ensure that the department completes the search in the shortest time feasible.

* **Sec. 2.** AS 47.10.084(d) is amended to read:

(d) When the child is placed in foster care, the foster parent has the right and responsibility to use a reasonable and prudent parent standard to make decisions relating to the child. The foster parent may make decisions under (a) or (b) of this section that include decisions relating to the child's participation in age-appropriate or developmentally appropriate activities, including travel, sports, field trips, overnight activities, and extracurricular, enrichment, cultural, and social activities. **A health care provider subject to the provisions of the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) who provides services to a child in foster care shall provide the medical records of the child to the child's foster parent upon the request of the foster parent.** The department shall provide foster parents with training regarding the reasonable and prudent parent standard. In this subsection, "reasonable and prudent parent standard" means a standard characterized by careful and sensible decisions to maintain the health, safety, and best interests of the child while encouraging the emotional and developmental growth of the child.

* **Sec. 3.** AS 47.10.088(i) is amended to read:

(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. Before identifying a placement of the child in an adoptive home, the department shall [ATTEMPT TO] locate any [ALL] living adult family members of the child **through a diligent search for adult family members as described in AS 47.10.145** and, if an adult family member expresses an interest in adopting the child, investigate the adult family member's ability to care for the child. The department shall provide to all adult family members of the child located by the department written notice of the adult family members' rights under this chapter and of the procedures necessary to gain custody of the child, but the department's obligation to provide written notice under this subsection does not apply to a parent of the child whose parental rights are being or have been terminated or to an adult family member who is known by the department to be ineligible for a foster care license under AS 47.32 and regulations adopted under AS 47.32. If an adult family member of a [THE] child **six years of age or older** requests that the department approve the adult family member for an adoption, the department shall approve the request unless there is good cause not to approve the adoption. **If an adult family member of a child under six years of age requests that the department approve the adult family member for an adoption, the department shall approve the request unless the child has resided with a foster family seeking adoption for at least 24 months and there is clear and convincing evidence that continued placement with the foster family is in the best interests of the child.** 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.

* **Sec. 4.** AS 47.10.142(i) is amended to read:

(i) When the department takes emergency custody of a child under this section or a court orders a child committed to the department for temporary placement under this section, the department shall, to the extent feasible and consistent with the best interests of the child, place the child according to the criteria specified under AS 47.14.100(e). A supervisor at the department shall certify in writing in the case file whether the department has **conducted a diligent search as described in**

AS 47.10.145 [SEARCHED] for an appropriate placement with an adult family member or family friend. If the department has not complied with the search requirements under this subsection, the supervisor shall work to ensure that the department completes the search in the shortest time feasible if it is consistent with the best interests of the child.

* **Sec. 5.** AS 47.10 is amended by adding a new section to read:

Sec. 47.10.145. Diligent search. (a) Within 30 days after removing a child from a parent's home under AS 47.14.100(e), taking emergency custody of a child, receiving a court order committing a child to the department for temporary placement under AS 47.10.142, or transferring a child from one placement setting to another under AS 47.10.080(s), the department shall conduct a diligent search for an adult family member or family friend of the child suitable for placement. In conducting the diligent search, the department shall

(1) interview

(A) the child's parent during the course of an investigation while department services are provided and the child is in the care of the department;

(B) the child;

(C) relatives of the child identified during the case; and

(D) any other person who is likely to have information about the identity or location of adult family members or family friends;

(2) conduct comprehensive searches of databases and other resources available to the department likely to identify and locate adult family members or family friends; and

(3) conduct any other reasonable investigation that is likely to identify adult family members or family friends who are appropriate for placement.

(b) The department shall provide all adult family members of the child identified in the diligent search, subject to exceptions for family with domestic violence or other safety concerns as determined by the department, a notice

(1) stating the child has been or is being removed from parental custody;

(2) explaining the options that the family member has to participate in the care and placement of the child and the results of failing to respond to the notice;

(3) describing the process for becoming a licensed foster home and the additional services and supports available for children placed in approved foster homes; and

(4) describing any financial assistance for which a family member may be eligible upon obtaining custody of the child.

(c) The department shall report to the court in writing regarding the actions taken by the department under (a)(1) - (3) of this section at any scheduled disposition, case review, or permanency hearing or as otherwise required by the court.

(d) The department shall continue to diligently search for adult family members or family friends suitable for placement of the child until the court orders that the department is excused from conducting a diligent search or the department finalizes the permanent placement of the child. The court may excuse the department from considering an adult family member for placement of a child if the adult family member does not demonstrate an interest in and willingness to be considered for placement of the child within 90 days from the date of receiving the required notice under (b) of this section.

* **Sec. 6.** AS 47.14.100(e) is amended to read:

(e) When a child is removed from a parent's home, the department shall search for an appropriate placement **as provided under AS 47.10.145** [WITH AN ADULT FAMILY MEMBER OR FAMILY FRIEND. A SUPERVISOR AT THE DEPARTMENT SHALL CERTIFY IN WRITING IN THE CASE FILE WHETHER THE DEPARTMENT HAS SEARCHED FOR AN APPROPRIATE PLACEMENT WITH AN ADULT FAMILY MEMBER OR FAMILY FRIEND]. If the department has not complied with the search requirements [UNDER THIS SUBSECTION], the supervisor shall work to ensure that the department completes the search in the shortest time feasible. The department shall place the child, in the absence of clear and convincing evidence of good cause to the contrary,

(1) in the least restrictive setting that most closely approximates a family and that meets the child's special needs, if any;

(2) within reasonable proximity to the child's home, taking into account any special needs of the child and the preferences of the child or parent;

(3) with, in the following order of preference,

(A) an adult family member, or, if the child is under six years of age and the department finds by clear and convincing evidence that it is in the best interests of the child, a licensed foster home that has provided at least 24 consecutive months of care to the child;

(B) a family friend who meets the foster care licensing requirements established by the department;

(C) a licensed foster home that is not an adult family member or family friend;

(D) an institution for children that has a program suitable to meet the child's needs.

* **Sec. 7.** AS 47.14.100(m) is amended to read:

(m) Prima facie evidence of good cause not to place a child with an adult family member or family friend under AS 47.10.088(i) or under (e) of this section includes the failure to meet the requirements for a foster care license under AS 47.32 and regulations adopted under AS 47.32, taking into account a waiver, variance, or exemption allowed under AS 47.32.030(a)(3) and 47.32.032. Prima facie evidence of good cause not to place a child, or that it is not in the best interests of a child to place the child, with an adult family member or adult family friend does not include poverty or inadequate or crowded housing. If the department denies a request for placement with an adult family member or a family friend, the department shall inform the adult family member or family friend of the basis for the denial and the right to request a hearing to review the decision. A non-party [ADULT FAMILY MEMBER OR FAMILY FRIEND] requesting a review hearing under AS 47.10.080(s), 47.10.088(i), [AS 47.10.088(i)] or [UNDER] (e) of this section is not eligible for publicly appointed legal counsel.

* **Sec. 8.** AS 47.32.032 is amended by adding new subsections to read:

(d) The department shall assist an adult family member or family friend in gathering the information necessary to submit a request for a variance under this

1 section.

2 (e) In this section, "department" means the Department of Family and
3 Community Services.

4 * **Sec. 9.** This Act takes effect January 1, 2026.