

February 3rd, 2016

DETAILED SECTIONAL ANALYSIS – CS112

*** Full analysis to be completed by lead department***

**Other departments include analysis for sections affecting your agency*.*

Sectional Analysis:

Section 1:

Page 1, line 6 - page 2 line 10:

Adds a new section outlining Legislative intent.

Section 2:

Page 2, line 11 - 14:

Adds a new subsection to AS 13.26.050, which states the venue for a guardianship proceeding for a child in state custody under 47.10 is the superior court where the child-in-need-of-aid proceeding is pending, as provided under AS47.10.111.

Section 3:

Page 2, line 15 - 18:

Adds new subsection to 13.26.060 which states that a petitioner seeking appointment as the guardian of a minor in state custody under AS 47.10 shall file the petition in the court where the child-in-need-of-aid proceedings are pending as required under AS 47.10.111.

Section 4:

Page 2, line 19 - 22:

Adds a new subsection to AS 25.23.030 which states the venue for an adoption proceeding for a child in state custody under AS 47.10 is the superior court where the child-in-need-of-aid proceeding is pending as provided under AS47.10.111.

Section 5:

Page 2, line 23 - 26:

Adds a new subsection to AS 25.23.080 which states an individual petitioning to adopt a child in state custody under AS 47.10 shall file the petition for adoption in the court where the child-in-need-of-aid proceedings are pending as required under AS 47.10.111.

Section 6:

Page 2, line 27 – Page 3, line 5:

Amends AS25.23.100 (a) to allow adoption petitions to be held in abeyance under AS 47.10.111 until the department changes the permanency from reunification to adoption or legal guardianship.

Section 7:

Page 3, line 6 – Page 4 line 17:

Adds a new subsection (6) stating that in a hearing to review the permanent plan under AS 47.10.111(c), the court shall make written findings related to whether the person who filed the petition or proxy is entitled to placement preference under AS 47.14.100(e) or 25 U.S.C. 1915(a), whichever is applicable.

Section 8:

Page 4, line 18 – page 6, line 11:

Adds new section to AS 47.10.111 establishing that the adoption and legal guardianship proceedings for a child in state custody, which is considered a child-in-need-of-aid, is initiated within child-in-need-of-aid proceedings. Proceedings to adopt a child in state custody are initiated by filing a petition under AS 25.23.080 or "proxy for a formal petition". This section defines that "proxy for formal petition" means a request by an extended family member, a member of the Indian child's tribe, a tribe the Indian child is eligible for enrolment in or a family friend interested in immediate and permanent placement and adoption or legal guardianship of an Indian child at any court hearing in a Child-in-need-of-aid proceeding. Proxy for formal petition may be conveyed to the department by telephone, mail, facsimile, electronic mail, or in person. Petitions for adoption or legal guardianship filed prior to permanency goal being changed to adoption by the court are held in abeyance until the permanency goal is changed to adoption or legal guardianship. A person who files a petition or proxy does not become a party to the child-in-need-of-aid proceedings and may only participate in proceedings under this chapter that concern the person's petition or proxy. A parent who has relinquished parental rights under AS47.10.089 or whose parental rights have been terminated under AS 47.10.088 is not a part to the adoption or guardianship proceeding under this section. The section allows the department regulatory authority to implement this section.

Section 9:

Page 6, line 12 – 19:

Amends AS 47.10.990 clarifies the definition of "adult family member" and in the case of an Indian child, is consistent with the definition of "adult family member: as defined in 25 U.S.C. 1903

Section 10:

Page 6, line 20 – 26:

Amends AS47.10.990 clarifies the definition of the term "family member" and in the case of an Indian child, is consistent the definitions contained in 25 U.S.C. 1903

Section 11:

Page 6, line 27 – 31:

Amends AS47.10.990 with a new paragraph which defines "family friend" "Indian child" and Indian child's tribe" has meaning given in 25 U.S. C. 1903.

Section 12:

Page 7, line 1 – 2:

Amends AS 47.14.100(t) by adding a new paragraph to clarify the meaning of "family friend" has the meaning given in AS 47.10.990

Section 13:

Page 7, line 3 -9:

Adds to the Direct Court Rule (5) (d) requiring that a petition to adopt a child in state custody under AS 47.10 must be brought in the superior court where the child-in-need-of-aid proceeding is pending as provided under AS 47.10.111

Section 14:

Page 7, line 10 – 18:

Adds to the Direct Court Rule (6) (a) (1) subsection (1) an adoption petition must include the information required by AS 25.23.080, except as provided under (a) (4) of this rule.

Section 15:

Page 7, line 19 – 25:

Adds to the Direct Court Rule 6(a) (1) subsection (4) a proceeding to adopt a child in state custody under AS 47.10 must comply with AS 47.10.111. A proceeding to adopt a child in state custody under AS 47.10 shall be heard as part of the child-in-need-of-aid proceeding.

Section 16:

Page 7, line 26 – page 8, line 13:

Adds to Direct Court Rule and amends the Alaska Child in Need of Aid Rules of Procedure. Rule 17.3. Petition or proxy for adoption or legal guardianship of a child under AS 47.10.111. This subsection establishes that a petitioner may file a petition or, in the case of an Indian child, a proxy, for adoption or legal guardianship of a child who is the subject of a pending child-in-need-of-aid proceeding under AS 47.10 in the same case. If a petition or proxy is filed before the court approves adoption or legal guardianship as the permanent plan for the child, the court shall hold the petition or proxy in abeyance until the court approves adoption or legal guardianship as the permanent plan for the child under Rule 17.2 and AS 47.10.080. If the child is in an out of home placement but not in the custody of the petitioner at the time of the petition or proxy is filed the court shall hold a hearing within 30 days to review the permanent plan under Rule 17.2 and AS 47.10.080. At the hearing the court shall, in addition to the findings required under Rule 17.2 and AS 47.10.080 make findings related to whether the petitioner is entitled to placement preference under AS 47.14.100(e) or 25 U.S.C. 1915(a) whichever is applicable.

Section 17:

Page 8, line 14 -21:

Adds uncodified law that if enacted by Sections 2 – 8 and sections 13- 16 of this act apply to proceedings for adoption or legal guardianships of a child in state custody under AS 47.10 filed on or after the effective date of sections 2 – 16 of this Act.

Section 18:

Page 8, line 22 – 27:

Adds a new section allowing the Department of Health and Social Services authority to adopt regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

Section 19:

Page 8, line 28 – Page 9, line 1:

Adds uncodified law that takes effect only if sections 13 – 16 of this act receive the two-thirds majority vote of each house required by article IV Section 15, Constitution of the State of Alaska.

Section 20:

Page 9, line 2:

Section 18 of this Act takes effective immediately under AS 01.10.070