



CS SB 112 Adoption of Child in State Custody (Version N)
Sectional Analysis
February 27, 2016

SB 112, "An Act establishing procedures related to a petition for adoption of a child in state custody; adding a definition of 'proxy for a formal petition'; amending Rule 6(a), Alaska Adoption Rules; and providing for an effective date."

Sectional Analysis:

- Section 1 Adds uncodified law outlining Legislative findings and the intent, and explains that the purpose of the bill is to assist in preserving placement preferences outlined in 25 U.S.C. 1901 – 1963, and add flexibility to the initiation of adoption and guardianship proceeding for a child in state custody. Clarifies the need for more appropriate adoption and legal guardianship processes for an Indian child in state custody under the Indian Child Welfare Act and allows for adoption and child-in-need-of-aid cases to be conjoined. Clarifies that this Act does not apply to: tribal adoptions performed under a tribes authority, tribal adoption proceeding transferred to the jurisdiction of the tribe, tribal customary adoptions, or adoptions or guardianships not a part of child-in-need of aid proceedings.
- Section 2 Adds a new subsection (b) to AS 13.26.050, which states a petition filed for adoption must comply with AS 47.10.111 and designates the venue shall be superior court where the child-in-need-of-aid proceeding is pending.
- Section 3 A new subsection (e) is added to AS 13.26.050 which requires that a petitioner for guardianship or adoption "shall" file the petition in the court where the child-in-need-of-aid proceedings are pending under AS 47.10.111.
- Section 4 Adds a new subsection (d) to AS 25.23.030 which requires that the venue for adoption proceeding for a child in state custody is superior court where the child-in-need-of-aid proceeding is pending as provided under AS 47.10.111.
- Section 5 Amends AS 25.23.080 by adding a new subsection (d) requiring that a petition to adopt a child in state custody under AS 47.10 must be filed in the court where the child-in-need-of-aid proceedings are pending under AS 47.10.111.
- Section 6 Amends AS 25.23.100(a) to include language that allows for a petition for adoption to be held in abeyance under AS 47.10.111, when the petition is filed before the permanency goal has been changed to adoption.

- Section 7 This section requires that within 12 months after a child enters foster care, the court shall hold a hearing to determine a permanent plan for the child. As part of this proceeding, the court shall determine if the parent or guardian has made sufficient progress and if or when the child should return to the parent. If progress has not been made, the court will determine if the goal should be changed to adoption or legal guardianship, and if parental rights should be terminated among other things. As part of this process, the court will determine whether the department has made reasonable efforts to offer appropriate family support services to remedy the parents' or guardians' conduct or condition that made this a child-in-need-of-aid case and whether the department has made reasonable efforts to finalize the permanent plan for the child. This latest version of the bill amends AS 47.10.080(l) by adding a new subsection that requires the court to make written findings in a permanency review hearing, related to whether any person who may have filed a 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 Amends AS 47.10 by adding a new section AS 47.10.111 which allows a person who is seeking adoption or appointment as legal guardian of a child in state custody to submit a petition, and under this new chapter the adoption or guardianship case would be heard as part of the child-in-need-of-aid proceedings. This new section also allows that in a case involving an Indian child, a proxy for a formal petition under this section is accepted. This section also clarifies that if a petition is filed prior to the permanency goal being changed to adoption or guardianship, that the petition will then be held in abeyance until the court has approved adoption or legal guardianship as the permanent plan. If a person files for adoption or guardianship, the department has up to 60 days after the petition or proxy is filed to submit a permanent plan, and the court shall hold a hearing to review the permanent plan not more than 90 days after the petition is filed. The petitioner does not become a party to the child-in need-of-aid proceedings, and may only participate in the proceedings that concern their petition or proxy.
- Section 9 Amends AS 47.10.990(1) and clarifies the definition of the term "adult family member."
- Section 10 Amends AS 47.10.990(10) and clarifies the definition of "family member."
- Section 11 Amends AS 47.10.990 by adding new paragraphs that define the terms; "family friend," "Indian child" and Indian child's tribe."
- Section 12 Amends AS 47.14.100(t), adding a new paragraph which defines "family friend."

- Section 13 Adds to the Direct Court Rule 5 by adding a new subsection 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.
- Section 14 Adds to the Direct Court Rule 6(a)(1) subsection (1) that an adoption petition must include information required by AS 25.23.080, except as provided under (a)(4) of this rule.
- Section 15 Adds to the Direct Court Rule 6(a)(1) subsection (4), adding that a proceeding must commence when a formal petition is submitted or the proxy for a formal petition is submitted under the new subsection AS 47.10.111 (b) and shall be heard within the child-in-need-of-aid proceeding.
- Section 16 Amends the Alaska Child in Need of Aid Rules of Procedure by adding rule 17.3, which allows a petitioner to 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 child-in-need-of-aid proceeding. This rule also allows that if a petition or proxy is filed before the court approves adoption or legal guardianship as the permanency plan, then the petition or proxy is held in abeyance until such a time as the court does approve adoption or guardianship as the permanency goal. This rule places on the department a limit of 60 days after a petition or proxy is filed to submit a permanent plan and requires the court to hold a hearing within 90 days to review the permanent plan.
- Section 17 Adds uncodified law that, if enacted, would apply to all adoption or legal guardianship proceedings filed on or after the effective date of this Act.
- Section 18 Adds a new section, allowing the Department of Health and Social Services authority to adopt regulations to implement this Act, and establishes that those regulations will take effect not before the effective date of this regulation.
- Section 19 Adds uncodified law by adding a new section which describes a conditional effect, which means that this law only takes effect if sections 13 -16 of this Act receive a two-thirds majority vote of each house required by article IV section 15, Constitution of the State of Alaska.
- Section 20 Establishes the date of January 1, 2017 as the effective date for section 18.