

CS FOR HOUSE BILL NO. 151()
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE GARA

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the duties of the Department of Health and Social Services; relating**
2 **to training and workload standards for employees of the Department of Health and**
3 **Social Services and providing immunity from damages related to those standards;**
4 **relating to foster care home licensing; relating to placement of a child in need of aid;**
5 **relating to the rights and responsibilities of foster parents; requiring the Department of**
6 **Health and Social Services to provide information to a child or person released from the**
7 **department's custody; and providing for an effective date."**

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

9 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
10 to read:

11 **SHORT TITLE.** This Act may be known as the Children Deserve a Loving Home Act.

12 *** Sec. 2.** AS 47.05.065 is amended to read:

13 **Sec. 47.05.065. Legislative findings related to children.** The legislature finds

1 that

2 (1) parents have the following rights and responsibilities relating to the
3 care and control of their child while the child is a minor:

4 (A) the responsibility to provide the child with food, clothing,
5 shelter, education, and medical care;

6 (B) the right and responsibility to protect, nurture, train, and
7 discipline the child, including the right to direct the child's medical care and
8 the right to exercise reasonable corporal discipline;

9 (C) the right to determine where and with whom the child shall
10 live;

11 (D) the right and responsibility to make decisions of legal or
12 financial significance concerning the child;

13 (E) the right to obtain representation for the child in legal
14 actions; and

15 (F) the responsibility to provide special safeguards and care,
16 including appropriate prenatal and postnatal protection for the child;

17 (2) it is the policy of the state to strengthen families and to protect
18 children from child abuse and neglect; the state recognizes that, in some cases,
19 protection of a child may require removal of the child from the child's home; however,

20 (A) except in those cases involving serious risk to a child's
21 health or safety, the Department of Health and Social Services should provide
22 time-limited family support services to the child and the child's family in order
23 to offer parents the opportunity to remedy parental conduct or conditions in the
24 home that placed the child at risk of harm so that a child may return home
25 safely and permanently; and

26 (B) the state also recognizes that when a child is removed from
27 the home, visitation between the child and the child's parents or guardian and
28 family members reduces the trauma for the child and enhances the likelihood
29 that the child will be able to return home; therefore, whenever a child is
30 removed from the parental home, the Department of Health and Social
31 Services should encourage frequent, regular, and reasonable visitation of the

1 child with the child's parent or guardian and family members;

2 (3) it is the policy of the state to recognize that, when a child is a ward
3 of the state, the child is entitled to reasonable safety, adequate care, and adequate
4 treatment and that the Department of Health and Social Services as legal custodian and
5 the child's guardian ad litem as guardian of the child's best interests and their agents
6 and assignees, each should make reasonable efforts to ensure that the child is provided
7 with reasonable safety, adequate care, and adequate treatment for the duration of time
8 that the child is a ward of the state;

9 (4) it is in the best interests of a child who has been removed from the
10 child's own home for the state to apply the following principles in resolving the
11 situation:

12 (A) the child should be placed in a safe, secure, and stable
13 environment;

14 (B) the child should not be moved unnecessarily;

15 (C) a planning process should be followed to lead to permanent
16 placement of the child;

17 (D) every effort should be made to encourage psychological
18 attachment between the adult caregiver and the child;

19 (E) frequent, regular, and reasonable visitation with the parent
20 or guardian and family members should be encouraged; [AND]

21 (F) parents and guardians must actively participate in family
22 support services so as to facilitate the child's being able to remain in the home;
23 when children are removed from the home, the parents and guardians must
24 actively participate in family support services to make return of their children
25 to the home possible; **and**

26 **(G) to the extent practicable, the Department of Health and**
27 **Social Services should enable a child's contact with previous out-of-home**
28 **caregivers when appropriate and in the best interests of the child;**

29 (5) numerous studies establish that

30 (A) children undergo a critical attachment process before the
31 time they reach six years of age;

1 (B) a child who has not attached with an adult caregiver during
2 this critical stage will suffer significant emotional damage that frequently leads
3 to chronic psychological problems and antisocial behavior when the child
4 reaches adolescence and adulthood; and

5 (C) it is important to provide for an expedited placement
6 procedure to ensure that all children, especially those under the age of six
7 years, who have been removed from their homes are placed in permanent
8 homes expeditiously.

9 * **Sec. 3.** AS 47.10.080(s) is amended to read:

10 (s) The department may transfer a child, in the child's best interests, from one
11 placement setting to another, and the child, the child's parents or guardian, the child's
12 foster parents or out-of-home caregiver, the child's guardian ad litem, the child's
13 attorney, and the child's tribe are entitled to advance notice of a nonemergency
14 transfer. A party opposed to the proposed transfer may request a hearing and must
15 prove by clear and convincing evidence that the transfer would be contrary to the best
16 interests of the child for the court to deny the transfer. A foster parent or out-of-home
17 caregiver who requests a nonemergency change in placement of the child shall provide
18 the department with reasonable advance notice of the requested change. When the
19 department transfers a child from one out-of-home placement to another, the
20 department shall search for an appropriate placement with an adult family member or
21 a family friend who meets the foster care licensing requirements established by the
22 department. **A supervisor at the department shall certify in writing in the case file**
23 **whether the department has searched for an appropriate placement with an**
24 **adult family member or family friend. If the department has not complied with**
25 **the search requirements under this subsection, the supervisor shall work to**
26 **ensure that the department completes the search in the shortest time feasible.**

27 * **Sec. 4.** AS 47.10.084 is amended by adding a new subsection to read:

28 (d) When the child is placed in foster care, the foster parent has the right and
29 responsibility to use a reasonable and prudent parent standard to make decisions
30 relating to the child. The foster parent may make decisions under (a) or (b) of this
31 section that include decisions relating to the child's participation in age-appropriate or

1 developmentally appropriate activities, including travel, sports, field trips, overnight
2 activities, and extracurricular, enrichment, cultural, and social activities. The
3 department shall provide foster parents with training regarding the reasonable and
4 prudent parent standard. In this subsection, "reasonable and prudent parent standard"
5 means a standard characterized by careful and sensible decisions to maintain the
6 health, safety, and best interests of the child while encouraging the emotional and
7 developmental growth of the child.

8 * **Sec. 5.** AS 47.10.086 is amended by adding a new subsection to read:

9 (h) The department shall engage a child who is 14 years of age or older in the
10 development or revision of a case plan, permanency goal, or alternative permanency
11 plan for the child. The department shall also allow the child to select not more than
12 two adults to participate in the development or revision of the plan in addition to the
13 child's foster parents or department employees who are supervising the care of the
14 child. The department may reject an adult selected by the child if the department has
15 good cause to believe that the adult will not act in the best interests of the child. If the
16 department rejects an adult, the child may select another adult. The child may
17 designate one of the adults to be the child's advisor, and the advisor may advocate for
18 the child.

19 * **Sec. 6.** AS 47.10.093(b) is amended to read:

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

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

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

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

31 (4) a school official as necessary to enable the school to provide

1 appropriate counseling and support services to a child who is the subject of the case, to
2 protect the safety of the child, and to protect the safety of school students and staff;

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

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

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

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

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

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

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

21 (12) a review panel established by the department for the purpose of
22 reviewing the actions taken by the department in a specific case;

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

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

29 (15) a state or municipal agency of this state or another jurisdiction
30 that is responsible for delinquent minors, as may be necessary for the administration of
31 services, protection, rehabilitation, or supervision of a child or for actions by the

1 agency to protect the public safety; however, a court may review an objection made to
2 a disclosure under this paragraph; the person objecting to the disclosure bears the
3 burden of establishing by a preponderance of the evidence that disclosure is not in the
4 child's best interest; **and**

5 **(16) a sibling of a child who is the subject of the case to allow the**
6 **siblings to contact each other if it is in the best interests of the child to maintain**
7 **contact; in this paragraph, "sibling" means an adult or minor who is related to**
8 **the child who is the subject of the case by blood, adoption, or marriage as a child**
9 **of one or both of the parents of the child who is the subject of the case; a sibling**
10 **who is adopted by a person other than the parent of the child who is the subject**
11 **of the case remains a sibling of the child.**

12 * **Sec. 7.** AS 47.10.142(i) is amended to read:

13 (i) When the department takes emergency custody of a child under this section
14 or a court orders a child committed to the department for temporary placement under
15 this section, the department shall, to the extent feasible and consistent with the best
16 interests of the child, place the child according to the criteria specified under
17 AS 47.14.100(e). **A supervisor at the department shall certify in writing in the**
18 **case file whether the department has searched for an appropriate placement with**
19 **an adult family member or family friend. If the department has not complied**
20 **with the search requirements under this subsection, the supervisor shall work to**
21 **ensure that the department completes the search in the shortest time feasible if it**
22 **is consistent with the best interests of the child.**

23 * **Sec. 8.** AS 47.14.100(e) is amended to read:

24 (e) When a child is removed from a parent's home, the department shall
25 **search for an appropriate placement with an adult family member or family**
26 **friend. A supervisor at the department shall certify in writing in the case file**
27 **whether the department has searched for an appropriate placement with an**
28 **adult family member or family friend. If the department has not complied with**
29 **the search requirements under this subsection, the supervisor shall work to**
30 **ensure that the department completes the search in the shortest time feasible. The**
31 **department shall** place the child, in the absence of clear and convincing evidence of

1 good cause to the contrary,

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

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

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

7 (A) an adult family member;

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

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

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

14 * **Sec. 9.** AS 47.14.100(i) is amended to read:

15 (i) A child may not be placed with an out-of-home care provider if the
16 department determines that the child can remain safely at home with **an adult family**
17 **member** [ONE PARENT] or guardian **who lives with the child**. In this subsection,
18 "out-of-home care provider" means an agency or person, other than the child's legal
19 parents, with whom a child who is in the custody of the state under
20 AS 47.10.080(c)(1) or (3), 47.10.142, or (c) of this section is currently placed; "agency
21 or person" includes a foster parent, a relative other than a parent, a person who has
22 petitioned for adoption of the child, and a residential child care facility.

23 * **Sec. 10.** AS 47.14.100(r) is amended to read:

24 (r) The department shall make reasonable efforts to place siblings in the same
25 placement if the siblings are residing in the same home when taken into the custody of
26 the department. If siblings are not placed together after reasonable efforts have been
27 made, the case supervisor for the division with responsibility over the custody of
28 children shall document in the file the efforts that were made and the reason separating
29 the siblings for placement purposes is in the best interest of the children. **If it is in the**
30 **best interests of the children to maintain contact, the department shall provide**
31 **each sibling with contact information for the other sibling and encourage the**

1 **children's caregivers to provide opportunities for contact between the siblings.** In
 2 this subsection, "sibling" means two or more persons who are related by blood,
 3 adoption, or marriage as a child of one or both parents.

4 * **Sec. 11.** AS 47.14 is amended by adding a new section to read:

5 **Sec. 47.14.112. Training and workload standards; report to legislature.** (a)

6 The department shall implement workload standards and a training program for
 7 employees who supervise the care of children committed to the supervision or custody
 8 of the department under AS 47.10, work with families to prevent the removal of a
 9 child from the child's home under AS 47.10, or investigate reports of harm under
 10 AS 47.17. Except as provided under (b) of this section, the department shall prepare a
 11 staffing report if the department is unable

12 (1) to employ the number of qualified employees necessary to ensure
 13 that

14 (A) the department reasonably and safely minimizes the time a
 15 child is not in a permanent living arrangement or under a permanent
 16 guardianship;

17 (B) a child is not removed from the child's home when it is
 18 possible and in the child's best interest for the department to work with the
 19 child's family to prevent the removal of the child from the child's home;

20 (C) each child is placed in a permanent home not more than 24
 21 months after the date the child is first removed from the child's home;

22 (2) to meet best practices standards set by the department requiring the
 23 employment of mentors for employees who supervise the care of children committed
 24 to the supervision or custody of the department under AS 47.10, work with families to
 25 prevent the removal of a child from the child's home under AS 47.10, or investigate
 26 reports of harm under AS 47.17;

27 (3) for a new employee who supervises the care of a child committed
 28 to the supervision or custody of the department under AS 47.10, works with families
 29 to prevent the removal of a child from the child's home under AS 47.10, or
 30 investigates reports of harm under AS 47.17, to

31 (A) provide a minimum of six weeks of training unless the

1 department finds that the new employee has sufficient experience to justify a
2 shorter training period;

3 (B) limit the employee's workload as follows:

4 (i) before the beginning of an employee's fourth month
5 of work with the department, the employee may supervise not more
6 than six families;

7 (ii) after the beginning of the employee's fourth month
8 of work but before the end of the employee's sixth month of work with
9 the department, the employee may supervise not more than 12 families;

10 (iii) when an employee supervises families in a region
11 where travel distances negatively affect the employee's ability to
12 supervise families and the employee has worked for the department for
13 less than 12 months, the employee may not supervise the maximum
14 number of families provided under (i) and (ii) of this subparagraph; and

15 (4) for an employee, other than a new employee, who supervises the
16 care of children committed to the supervision or custody of the department under
17 AS 47.10, works with families to prevent the removal of a child from the child's home
18 under AS 47.10, or investigates reports of harm under AS 47.17, to ensure that the
19 average statewide caseload is not more than 13 families for each worker.

20 (b) If a staffing report is required under this section, the department shall
21 explain in the staffing report why the department is not able to meet the standards, the
22 amount of funding that would be necessary to meet the standards, and the effects on a
23 child and the child's family of not meeting the standards. The department shall include
24 the staffing report in the annual report to the legislature required under AS 18.05.020.

25 (c) Notwithstanding any other provision of this section, the department is
26 immune from suit under this section if the department was unable to meet the
27 workload standards and adjusted workload standards because of a lack of sufficient
28 appropriations or because the department's efforts to recruit or retain employees did
29 not result in an adequate number of qualified applicants to meet the workload
30 standards, as outlined in the staffing report.

31 * **Sec. 12.** AS 47.14.115 is amended by adding a new subsection to read:

1 (b) If the department determines that it is in the best interests of a child in the
2 department's custody to place the child with an adult family member who does not
3 have a foster care home license under AS 47.32, the department shall assist the adult
4 family member in obtaining a license, including assisting the adult family member
5 with obtaining any variances necessary to obtain the license, so that the family
6 member is eligible for payments under AS 47.14.100(b) and (d).

7 * **Sec. 13.** AS 47.18.320 is amended by adding a new subsection to read:

8 (d) When an individual 16 years of age or older who has been in state custody
9 under AS 47.10 for at least six months is released from state custody, the department
10 shall, in addition to any training, services, and assistance provided under (a) - (c) of
11 this section, provide the individual with or assist the individual with obtaining the
12 individual's

13 (1) birth certificate; the birth certificate may be an official or certified
14 copy;

15 (2) social security card;

16 (3) health insurance information;

17 (4) medical records;

18 (5) driver's license or identification card; and

19 (6) certificate of degree of Indian or Alaska Native blood, if
20 applicable.

21 * **Sec. 14.** AS 47.32.032 is amended by adding a new subsection to read:

22 (c) To the extent feasible, the department shall approve or deny a foster care
23 home license, including a request for a variance under this section, not more than 45
24 days after the date the department receives the application for a foster care home
25 license. If it is not feasible to approve or deny a foster care home license not more than
26 45 days after receiving the application, a supervisory-level employee may authorize a
27 longer period of time for the decision, but the period must be the shortest period
28 feasible.

29 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **APPLICABILITY.** This Act applies to a child in the custody or under the supervision

1 of the Department of Health and Social Services under AS 47.10 on or after the effective date
2 of secs. 1 - 15 and 17 of this Act.

3 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 **TRANSITION: REGULATIONS.** The Department of Health and Social Services may
6 adopt regulations necessary to implement the changes made by this Act. The regulations take
7 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
8 law implemented by the regulation.

9 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **TRANSITION: IMPLEMENTATION.** The Department of Health and Social Services
12 shall implement all of the provisions of this Act as expeditiously as possible. Notwithstanding
13 this requirement, the Department of Health and Social Services shall, not later than

14 (1) one year after the effective date of secs. 3 - 5, 7 - 9, and 11 of this Act,
15 implement the changes made by AS 47.10.080(s), as amended by sec. 3 of this Act,
16 AS 47.10.084(d), enacted by sec. 4 of this Act, AS 47.10.086(h), enacted by sec. 5 of this Act,
17 AS 47.10.142(i), as amended by sec. 7 of this Act, AS 47.14.100(e), as amended by sec. 8 of
18 this Act, AS 47.14.100(i), as amended by sec. 9 of this Act, and AS 47.14.112(a)(3)(A),
19 enacted by sec. 11 of this Act;

20 (2) three years after the effective date of secs. 2, 6, and 10 - 14 of this Act,
21 implement the changes made by AS 47.05.065, as amended by sec. 2 of this Act,
22 AS 47.10.093(b), as amended by sec. 6 of this Act, AS 47.14.100(r), as amended by sec. 10 of
23 this Act, AS 47.14.112(a)(1), (a)(2), (a)(3)(B), (b), and (c), enacted by sec. 11 of this Act,
24 AS 47.14.115(b), enacted by sec. 12 of this Act, AS 47.18.320(d), enacted by sec. 13 of this
25 Act, and AS 47.32.032(c), enacted by sec. 14 of this Act.

26 * **Sec. 18.** Section 16 of this Act takes effect immediately under AS 01.10.070(c).