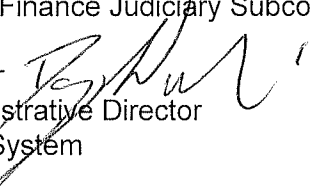


MEMORANDUM

ALASKA COURT SYSTEM

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TO: Senator Bill Wielechowski
Chair, Senate Finance Judiciary Subcommittee

FROM: Doug Wooliver 
Deputy Administrative Director
Alaska Court System

DATE: February 20, 2020

RE: Questions from February 13th Subcommittee Meeting

During the Senate Finance Judiciary Subcommittee meeting on Thursday, February 13th the court system was asked several general questions about Child in Need of Aid (CINA) cases, and about the availability of federal grants for therapeutic courts.

A. Child in Need of Aid Case - Progression

The child in need of aid laws are complex and the cases often present complicated facts, but below is an overall picture of the normal progression of a CINA case through the superior court. The attached flow chart also shows the typical hearings that take place at various stages of a CINA case. Note that slightly different procedures, requirements, burdens of proof, and findings must be used for cases involving Indian children under the Indian Child Welfare Act (ICWA), which make up a large portion of all CINA cases in the Alaska Court System. Nonetheless, the description below is a general outline for all CINA cases.

1. After the Office of Children's Services (OCS) receives a report of harm and responds, it may decide that the report is substantiated (or not) and may file either an emergency petition within 24 hours of removing a child from a home (AS 47.10.142), or file a non-emergency petition if the child was not removed immediately.
2. The court conducts a temporary custody hearing (also called a probable cause hearing) within 48 hours if there was an emergency removal, and determines, based on the evidence presented, whether there's probable cause to believe the child is in need of aid under one or more of the 12 subsections listed in AS 47.10.011. If the court does find probable cause, the judge reviews the efforts, if any, that OCS made to keep the child in the home, and the judge reviews OCS' decision on temporary placement to ensure it is not unreasonable.
3. The court holds an adjudication hearing within 120 days; at this hearing, the court again determines whether the child is a child in need of aid, AS 47.10.080(a)-(e) et seq., and reviews the department's past work to determine whether it is making "reasonable efforts" (or "active efforts" in an ICWA case) to provide family support services to the child and the parents to try to prevent out-of-home placement or to enable the child to return home safely, when appropriate. AS 47.10.086. The OCS has a continuing statutory obligation to make reasonable efforts, and

the court may hold a number of hearings to review the family's progress and discuss further action to ensure the decisions are being made in the best interests of the child.

4. After OCS files a comprehensive pre-disposition report (setting out the case plan, information about the family, their history of OCS contacts, a statement of relevant changes in the child's or parent's behavior, and whether the child should remain in out-of-home care), the court holds a disposition hearing to determine the appropriate disposition for a child. At this hearing the court must decide whether to commit the child to OCS for placement for up to two years, or to return the child to the parents. The court must also again find whether OCS has made reasonable efforts to permit the child to return home safely.

5. If the court committed the child to OCS for placement, it must hold a permanency hearing within 12 months of the date the child entered foster care. At the hearing, the court must again find that the child remains a child in need of aid, determine whether the parent(s) made substantial progress to remedy the conduct that made the child a child in need of aid, determine whether OCS has continued to make reasonable efforts to finalize the permanency plan, and then approve a permanent plan for the child.

6. If OCS files a petition to terminate parental rights (AS 47.10.088(d)), and the parent(s) object, the court must hold a termination trial within six months. If the court determines that the department followed the statutory and rule-based requirements and procedures, it must decide, using the statutory list of findings and burden of proof, whether termination of parental rights is warranted because it is in the best interests of the child. If parental rights are terminated, the child is available to be adopted.

7. At every stage of a CINA case, the parents are entitled to an attorney; this is very commonly at public expense because the parents cannot afford to pay a private attorney. Representation of parents is by the Public Defender Agency. Often each of the parents must have their own attorney, because their interests are not aligned. The child is appointed a guardian ad litem to convey their interests, and sometimes an attorney is also appointed for the child. If the case is an ICWA case, the tribe is also entitled to appear. Sometime relatives (grandparents, for example) and others (close family friends, foster parents) are involved in the hearings as well.

B. Number of CINA Cases Filed

The number of CINA cases filed with the court system has increased from 1,526 in FY 2010 to 2,581 in FY 19. The number of cases varies somewhat from year to year, but the general trend is toward more cases.

C. Efforts to Improve Process

The court system presides over the Court Improvement Project, which is a federally funded multiagency program that looks to find improvements in and provide training for CINA issues. The CINA Court Improvement Program has recently selected Fairbanks as the pilot site for a multi-agency collaborative project to improve hearing quality and reduce time to permanency for

children in Child in Need of Aid cases. A committee of representatives from the Alaska Court System, the Office of Children's Services, the Department of Law, the Public Defender Agency, and the Office of Public Advocacy are working together to plan and implement the project. Key elements of the project include:

- CINA cases to be heard at least once every 6 months.
 - Case reviews, currently held by the Office of Children's Services every 6 months, will be held by the court.
- Judges to use national best practices models to encourage parental engagement and monitor case progress.
- Judges to use bench cards based on national best practices, to improve CINA hearing quality.
- OCS to provide staff training and mentoring on timely filing of petitions, reports, and proposed orders.
- OCS to hold regional permanency training to identify and work to remove barriers to permanency for post-termination cases.
- The CINA CIP Committee will monitor CINA case data and make recommendations for project improvements as needed.

The goal of the project is to improve permanency outcomes for children by focusing on case progress at regularly scheduled and more frequent intervals. Improved hearing quality and a focus on timely filing of petitions, reports and orders, should lead to fewer continuances and reduce the overall number of hearings. With case reviews scheduled and held by the court, more meaningful participation in case reviews is expected along with improved efficiencies.

Dates for implementation in other court locations will be determined after review of information obtained from the Fairbanks pilot.

D. Comparison with Other States

Although there are several variables that can be measured and compared, attached is one page from a lengthy annual report compiled by the Federal Children's Bureau. The page shows the rates of child abuse investigations or other response to reports of harm.

Here is a link to the full report, which is comprehensive:
<https://www.acf.hhs.gov/sites/default/files/cb/cm2018.pdf>

E. Federal Funds for Therapeutic Courts

The court is currently in the last year of a Bureau of Justice Assistance (Adult Drug Court) for the Palmer Wellness Court. This \$300,000 grant was awarded to the court in 2016 and was extended through June of 2020. In order to receive these funds, we had to match our request with roughly \$100,000, which the court met through hiring a three-year temporary employee, and by providing drug testing and drug testing staff.

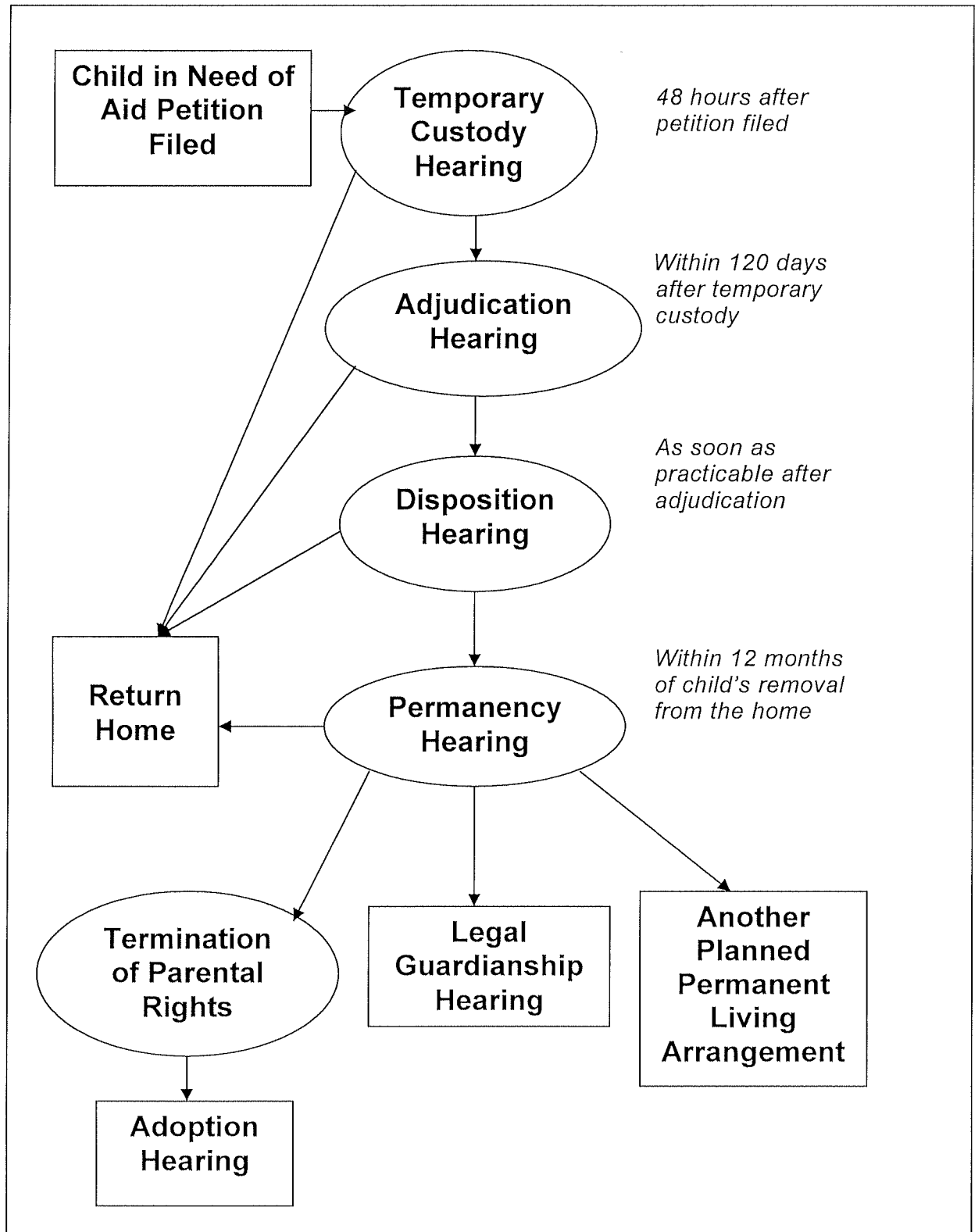
The grant specifically funded a probation officer for three years, and we have requested that those expired funds be replaced by adding them to the court's operating budget, so that the court can continue functioning uninterrupted.

We are also in the last year of a federal grant that provides training and technical assistance to the Palmer Families with Infants and Toddlers Court (the FIT Court), which is a national initiative aimed at addressing the needs of infants and families affected by substance use disorders and prenatal substance exposure. This grant was submitted in FY18 on the court's behalf by the MatSu Health Foundation for use during FFY18-20. The request of \$210,000 was awarded in FY18, and funds will be available for our use through the end of September 2020. The court has asked for these expiring funds to be replaced with state funding as part of our FY 21 base operating budget in order to continue the Palmer FIT Court.

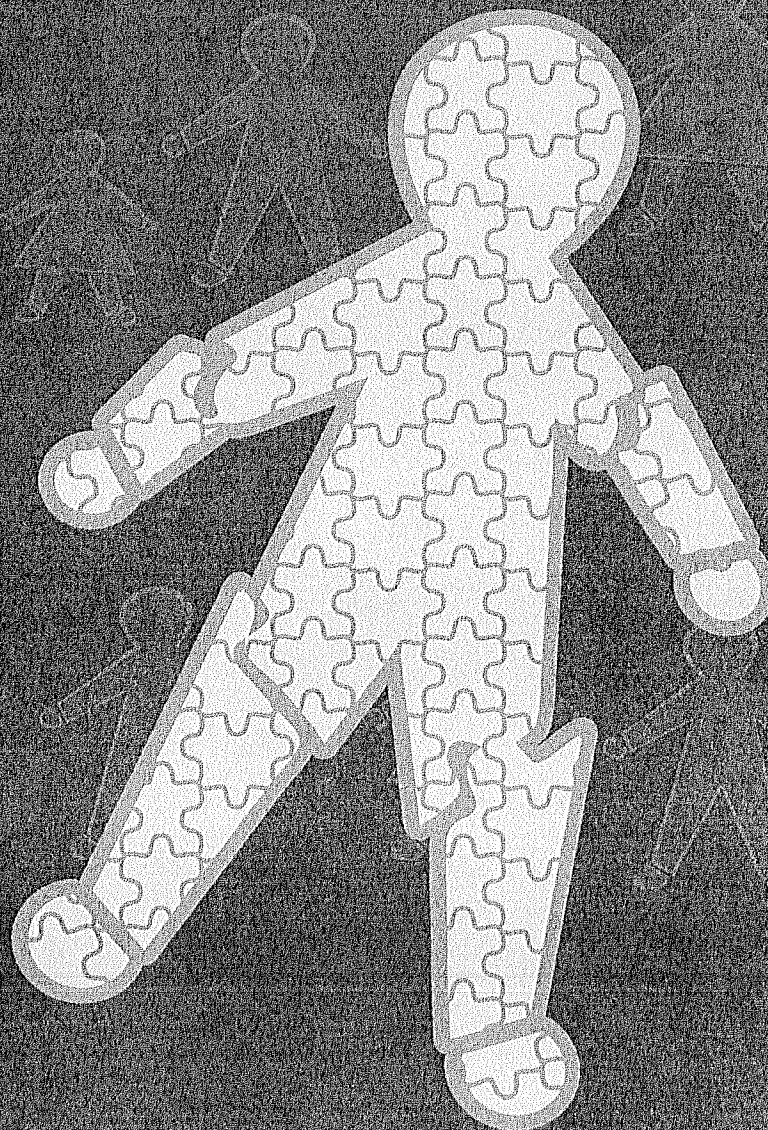
Other federal grants may be available for therapeutic courts, but the therapeutic courts staff has not identified any particular sources of grant funding that the court could feasibly apply for, manage, and implement at this time.

Please don't hesitate to contact me if you would like additional information.

Child in Need of Aid Court Process



Child Maltreatment 2018



U.S. Department of Health & Human Services
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau



Table 3–1 Children Who Received an Investigation or Alternative Response, 2014–2018

| State | 2014 Rate per 1,000 Children | 2015 Rate per 1,000 Children | 2016 Rate per 1,000 Children | 2017 Rate per 1,000 Children | 2018 Rate per 1,000 Children |
|----------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|
| Alabama | 26.5 | 27.8 | 33.5 | 35.5 | 35.4 |
| Alaska | 54.2 | 58.0 | 63.2 | 71.0 | 69.4 |
| Arizona | 45.0 | 47.0 | 57.1 | 51.1 | 53.5 |
| Arkansas | 81.9 | 82.2 | 83.1 | 86.1 | 83.7 |
| California | 40.2 | 41.2 | 41.5 | 40.5 | 40.0 |
| Colorado | 30.6 | 30.5 | 33.6 | 34.5 | 35.3 |
| Connecticut | 32.1 | 28.5 | 31.3 | 32.9 | 26.8 |
| Delaware | 65.2 | 68.7 | 68.1 | 65.2 | 59.8 |
| District of Columbia | 95.6 | 99.6 | 105.7 | 113.6 | 112.4 |
| Florida | 71.2 | 68.5 | 69.2 | 70.5 | 69.2 |
| Georgia | 55.2 | 65.3 | 67.5 | 65.5 | 65.5 |
| Hawaii | 10.7 | 12.0 | 12.1 | 11.4 | 12.6 |
| Idaho | 26.8 | 28.2 | 25.9 | 26.4 | 28.7 |
| Illinois | 41.6 | 42.2 | 47.9 | 46.3 | 51.1 |
| Indiana | 80.5 | 88.2 | 93.1 | 103.7 | 102.9 |
| Iowa | 38.9 | 39.7 | 41.8 | 48.1 | 52.9 |
| Kansas | 38.4 | 38.2 | 38.2 | 38.1 | 39.4 |
| Kentucky | 70.6 | 73.2 | 71.0 | 79.5 | 83.2 |
| Louisiana | 35.0 | 32.6 | 30.1 | 25.3 | 23.8 |
| Maine | 51.2 | 49.3 | 45.6 | 44.4 | 44.1 |
| Maryland | 23.4 | 23.0 | 23.8 | 24.1 | 24.1 |
| Massachusetts | 55.5 | 54.6 | 57.6 | 54.2 | 55.8 |
| Michigan | 68.3 | 66.7 | 68.0 | 69.2 | 73.3 |
| Minnesota | 20.6 | 23.7 | 30.0 | 31.3 | 30.4 |
| Mississippi | 43.1 | 46.9 | 53.4 | 55.1 | 57.6 |
| Missouri | 54.1 | 52.9 | 54.5 | 50.9 | 58.9 |
| Montana | 45.1 | 55.9 | 60.1 | 62.1 | 66.7 |
| Nebraska | 48.0 | 49.3 | 48.2 | 53.0 | 51.0 |
| Nevada | 37.9 | 42.4 | 41.2 | 41.3 | 43.9 |
| New Hampshire | 43.4 | 42.5 | 53.1 | 48.5 | 53.8 |
| New Jersey | 37.8 | 37.6 | 37.5 | 37.9 | 39.8 |
| New Mexico | 53.2 | 56.5 | 47.8 | 54.5 | 53.5 |
| New York | 47.7 | 49.4 | 50.5 | 53.1 | 53.8 |
| North Carolina | 53.5 | 54.0 | 52.3 | 52.5 | 48.8 |
| North Dakota | 37.9 | 37.0 | 37.9 | 38.1 | 40.8 |
| Ohio | 38.8 | 38.7 | 39.7 | 41.4 | 42.6 |
| Oklahoma | 58.7 | 59.4 | 55.8 | 57.1 | 61.6 |
| Oregon | 43.7 | 45.2 | 57.4 | 50.4 | 57.6 |
| Pennsylvania | 9.3 | 13.7 | 15.0 | 16.1 | 16.0 |
| Puerto Rico | 36.6 | 38.2 | - | 28.2 | 25.3 |
| Rhode Island | 44.1 | 40.0 | 36.1 | 36.2 | 52.8 |
| South Carolina | 42.6 | 46.2 | 59.3 | 62.3 | 74.7 |
| South Dakota | 21.0 | 20.1 | 19.4 | 19.4 | 17.3 |
| Tennessee | 63.3 | 62.1 | 60.9 | 61.1 | 58.0 |
| Texas | 35.4 | 37.0 | 36.9 | 38.5 | 38.1 |
| Utah | 27.9 | 28.0 | 27.1 | 27.8 | 28.0 |
| Vermont | 34.5 | 42.5 | 38.9 | 40.3 | 38.7 |
| Virginia | 32.7 | 32.5 | 33.6 | 33.0 | 26.3 |
| Washington | 26.6 | 28.1 | 25.0 | 25.0 | 27.7 |
| West Virginia | 104.2 | 120.1 | 140.1 | 150.7 | 143.6 |
| Wisconsin | 25.2 | 28.1 | 26.8 | 27.5 | 28.3 |
| Wyoming | 40.7 | 40.4 | 36.2 | 38.7 | 36.5 |
| National | 43.9 | 45.2 | 46.7 | 47.2 | 47.8 |
| Reporting States | - | - | - | - | - |