

**HOUSE BILL NO. 3**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE WILLIS

Introduced: 1/16/95

Referred: State Affairs, Health, Education and Social Services, Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the right of a stepparent to have court-appointed counsel at  
2 public expense in a child-in-need-of-aid proceeding under certain circumstances;  
3 and amending Alaska Child In Need of Aid Rule 12."

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

5 \* **Section 1.** AS 44.21.410(a) is amended to read:

6 (a) The office of public advocacy shall

7 (1) perform the duties of the public guardian under AS 13.26.360 -  
8 13.26.410;

9 (2) provide visitors and experts in guardianship proceedings under  
10 AS 13.26.131;

11 (3) provide guardian ad litem services to children in child protection  
12 actions under AS 47.17.030(e) and to wards and respondents in guardianship  
13 proceedings who will suffer financial hardship or become dependent upon a  
14 government agency or a private person or agency if the services are not provided at

1 state expense under AS 13.26.112;

2 (4) provide legal representation in guardianship proceedings to  
3 respondents who are financially unable to employ attorneys under AS 13.26.106(b),  
4 to indigent parties in cases involving child custody in which the opposing party is  
5 represented by counsel provided by a public agency, to indigent parents or guardians  
6 of a minor respondent in a commitment proceeding concerning the minor under  
7 AS 47.30.775;

8 (5) provide legal representation and guardian ad litem services under  
9 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on  
10 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or  
11 petitions for the termination of parental rights on grounds set out in  
12 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor  
13 under AS 09.55.590; in children's proceedings under AS 47.10.010(e) or 47.10.050(a)  
14 [AS 47.10.050(a)]; and in cases involving indigent persons who are entitled to  
15 representation under AS 18.85.100 and who cannot be represented by the public  
16 defender agency because of a conflict of interests;

17 (6) develop and coordinate a program to recruit, select, train, assign,  
18 and supervise volunteer guardians ad litem from local communities to aid in delivering  
19 services in cases in which the office of public advocacy is appointed as guardian ad  
20 litem;

21 (7) provide guardian ad litem services in proceedings under  
22 AS 12.45.046;

23 (8) establish a fee schedule and collect fees for services provided by  
24 the office, except as provided in AS 18.85.120 or when imposition or collection of a  
25 fee is not in the public interest as defined under regulations adopted by the  
26 commissioner of administration;

27 (9) provide visitors and guardians ad litem in proceedings under  
28 AS 47.30.839;

29 (10) provide legal representation to indigent parents under  
30 AS 14.30.195(e).

31 \* **Sec. 2.** AS 47.10.010 is amended by adding a new subsection to read:

1 (f) In a proceeding under (a)(2) of this section, a stepparent of the child who  
2 is the subject of the proceeding has a right to be represented by a court-appointed  
3 attorney at public expense if the stepparent is financially unable to employ counsel and  
4 it is alleged in the proceeding that the child is in need of aid, in whole or in part, as  
5 a result of acts or omissions of the stepparent. Appointment of counsel under this  
6 subsection, including notice and waiver procedures and the determination of the  
7 stepparent's financial ability to employ counsel, shall be carried out by the court in the  
8 same manner as is used for appointment of counsel for a parent who is financially  
9 unable to employ counsel in a proceeding under (a)(2) of this section.

10 \* **Sec. 3.** Rule 12(a) of the Alaska Child in Need of Aid Rules is amended to read:

11 (a) Notice of Right to Counsel. The court shall inform the parties **and the**  
12 **child's stepparent, if applicable,** at the first hearing at which they are present of their  
13 respective rights to be represented by counsel at all stages of the proceedings.

14 \* **Sec. 4.** Rule 12(b) of the Alaska Child in Need of Aid Rules is amended to read:

15 (b) Appointed Counsel. The court shall appoint counsel pursuant to  
16 Administrative Rule 12:

17 (1) for a parent or guardian who is financially unable to employ  
18 counsel;

19 (2) for a parent on active military duty who has not appeared prior to  
20 entry of an adjudication;

21 (3) for a child when the court determines that the interests of justice  
22 require the appointment of an attorney to represent the child's expressed interests;  
23 [AND]

24 (4) for a non-attorney guardian ad litem when legal representation of  
25 the guardian ad litem is necessary; **and**

26 **(5) for a stepparent who is entitled to counsel under AS 47.10.010(e)**  
27 **and is financially unable to employ counsel.**

28 \* **Sec. 5.** Rule 12(c) of the Alaska Child in Need of Aid Rules is amended to read:

29 (c) Waiver of Right to Counsel. The court shall accept a valid waiver of the  
30 right to counsel by any **person** [PARTY] if the court determines that the **person**  
31 [PARTY] understands the benefits of counsel and knowingly waives those benefits.