

HOUSE BILL NO. 340

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE HODGINS

Introduced: 1/21/98

Referred: Health, Education and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to child abuse and neglect, child-in-need-of-aid proceedings, and
2 review of cases involving certain children who are in the custody of the state;
3 amending Rules 3, 7, 10, 15, 17, and 19, Alaska Child in Need of Aid Rules;
4 and providing for an effective date."

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

6 * **Section 1.** AS 11.56 is amended by adding a new section to read:

7 **Sec. 11.56.802. False report of child abuse.** (a) A person commits the crime
8 of making a false report of child abuse if the person knowingly makes a false report
9 to the Department of Health and Social Services that the person suspects that a child
10 has suffered harm as a result of child abuse or neglect.

11 (b) Making a false report of child abuse is a class C felony.

12 * **Sec. 2.** AS 47.10.070(a) is amended to read:

13 (a) The court may conduct the hearing on the petition in an informal manner
14 in the courtroom or in chambers. The court shall give notice of the hearing to the

1 department, **the minor's parents, and the minor's guardian and guardian ad litem,**
 2 **if any** [AND IT MAY SEND A REPRESENTATIVE TO THE HEARING]. The
 3 court shall also transmit a copy of the petition to the **persons to whom the court**
 4 **must send notice of the hearing** [DEPARTMENT]. The **persons to whom the court**
 5 **must send notice of the hearing and assistants of those persons are entitled to**
 6 [REPRESENTATIVE OF THE DEPARTMENT MAY ALSO] be heard at the hearing.
 7 The public shall be excluded from the hearing, but the court, in its discretion, may
 8 permit individuals, **such as the child's health care providers,** to attend a hearing if
 9 their attendance is compatible with the best interests of the minor.

10 * **Sec. 3.** AS 47.10.070 is amended by adding a new subsection to read:

11 (c) When the department is required by law or court rule to send to persons
 12 outside the department a copy of a petition for adjudication of a minor as a child in
 13 need of aid, a copy of a petition for temporary custody, or a notice of the time and
 14 place of a hearing held on either type of petition or held to review a minor's
 15 placement, the department shall send the copy and notice to the parents, guardian,
 16 guardian ad litem, and foster parents of the child if these persons can be found after
 17 diligent efforts. A person entitled to notice under this subsection and the minor's
 18 health care provider are entitled to be present and to testify at the hearing without the
 19 consent or request of the department or of another person described in this subsection.

20 * **Sec. 4.** AS 47.10.080(f) is amended to read:

21 (f) A minor found to be a child in need of aid is a ward of the state while
 22 committed to the department or the department has the power to supervise the minor's
 23 actions. The court shall review an order made under (c)(1) or (2) of this section
 24 annually, and may review the order more frequently to determine if continued
 25 placement or supervision, as it is being provided, is in the best interest of the minor.
 26 If annual review under this subsection would arise within 90 days of the hearing
 27 required under (l) of this section, the court may postpone review under this subsection
 28 until the time set for the hearing. The department, the minor, the minor's parents,
 29 guardian, **guardian ad litem, foster parent,** or **other** custodian are entitled, when
 30 good cause is shown, to a review on application. If the application is granted, the
 31 court shall afford these parties and their counsel reasonable notice in advance of the

1 review and hold a hearing where these parties and their counsel **and the minor's**
 2 **health care providers** shall be afforded an opportunity to be heard. The minor shall
 3 be afforded the opportunity to be present at the review.

4 * **Sec. 5.** AS 47.10.080(l) is amended to read:

5 (l) Within 18 months after the date a child is initially removed from the child's
 6 home by the department under AS 47.10.142(c) or committed to the custody of the
 7 department under (c)(1) or (3) of this section or AS 47.14.100(c), the court shall hold
 8 a hearing to review the placement and services provided and to determine the future
 9 status of the minor. **The persons entitled to be heard at the hearing under**
 10 **AS 47.10.070 or under (f) of this section are also entitled to be heard at the**
 11 **hearing under this subsection.** The court shall make appropriate written findings,
 12 including findings related to the following:

13 (1) whether the child should be returned to the parent;

14 (2) whether the child should remain in out-of-home care for a specified
 15 period;

16 (3) whether the child should remain in out-of-home care on a
 17 permanent or long-term basis because of special needs or circumstances;

18 (4) whether the child should be placed for adoption or legal
 19 guardianship.

20 * **Sec. 6.** AS 47.14.240(d) is amended to read:

21 (d) In reviewing a case, the local review panel shall consider the case plan and
 22 any progress report of the department or the child's guardian ad litem, court records,
 23 and other relevant information about the child and the child's family. The local
 24 **review** panel shall provide to the following persons an opportunity to be interviewed
 25 by the local review panel in person or by telephone or to provide written material to
 26 the local review panel:

27 (1) the child whose case is being reviewed if the child is 10 years of
 28 age or older;

29 (2) the parents, custodians, or other relatives of the child;

30 (3) the child's out-of-home care provider;

31 (4) the child's guardian;

- 1 (5) the child's guardian ad litem;
- 2 (6) the case worker or social worker assigned to the case;
- 3 (7) **the child's health care providers;**
- 4 (8) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child
- 5 Welfare Act),
- 6 (A) the child's Indian custodian; and
- 7 (B) the designated representative of the child's Indian tribe if
- 8 the tribe has intervened in the court case; and
- 9 (9) [(8)] other persons with a close personal knowledge of the case.

10 * **Sec. 7. COURT RULE CHANGE.** (a) AS 47.10.070 and 47.10.080, as amended by

11 secs. 2 - 5 of this Act, have the effect of amending Rules 3, 7, 10, 15, 17, and 19, Alaska

12 Child in Need of Aid Rules, by requiring certain information about children's hearings to be

13 sent to additional persons and by providing that those persons are entitled to be present and

14 testify at the hearings.

15 (b) Sections 2 - 5 of this Act take effect only if this section receives the two-thirds

16 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

17 * **Sec. 8. APPLICABILITY.** (a) The changes made by secs. 2 - 5 of this Act apply to

18 hearings described in this Act for which notice has not been sent by the court or the

19 Department of Health and Social Services before the effective date of this Act.

20 (b) AS 11.56.802, added by sec. 1 of this Act, applies to a report of suspected child

21 abuse that is made on or after the effective date of this Act.

22 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).