

**CS FOR HOUSE BILL NO. 375(HES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/7/98

Referred: Judiciary, Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to children-in-need-of-aid matters and proceedings; relating to  
2 child abuse and neglect; relating to murder of children, kidnapping, the crime of  
3 indecent exposure, and the crime of endangering the welfare of a child; relating  
4 to sentencing for certain crimes involving child victims; relating to the state  
5 medical examiner and reviews of child fatalities; relating to teacher certification  
6 and convictions of crimes involving child victims; relating to access, confidentiality,  
7 and release of certain information concerning the care of children, child abuse  
8 and neglect, and child fatalities; authorizing the Department of Health and Social  
9 Services to enter into an interstate compact concerning adoption and medical  
10 assistance for certain children with special needs; relating to the review of cases  
11 involving certain children who are in the custody of the state; authorizing the  
12 establishment of multidisciplinary child protection teams and relating to their

1 duties; relating to persons required to report suspected child abuse or neglect;  
 2 relating to foster care placement and foster care licensing; relating to access to  
 3 certain criminal justice information and licensure of certain child care facilities;  
 4 relating to determinations of child custody and visitation in situations involving  
 5 domestic violence; amending Rule 218, Alaska Rules of Appellate Procedure;  
 6 amending the Alaska Child in Need of Aid Rules; and providing for an effective  
 7 date."

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

9 \* **Section 1.** INTENT AND PURPOSE OF ACT. (a) The intent of this Act is to protect  
 10 children from abuse and neglect without prohibiting the use of reasonable methods of parental  
 11 discipline or prescribing a particular method of parenting.

12 (b) The purpose of this Act is to

13 (1) provide the legal mechanisms by which the state can use its resources to  
 14 implement the findings in this section for the best interest of children in this state; and

15 (2) override the court decisions in the following cases:

16 (A) Matter of J.L.F., 912 P.2d 1255 (Alaska 1996), In Re S.A., 912  
 17 P.2d 1235 (Alaska 1996), and F.T. v. State, 862 P.2d 857 (Alaska 1993), concerning  
 18 the standards to adjudicate a child in need of aid when a parent or caregiver is willing,  
 19 but unable, to provide essential care for a child;

20 (B) A.M. v. State, 891 P.2d 815 (Alaska 1995), and Nada A. v. State,  
 21 660 P.2d 436 (Alaska App. 1983), concerning the standards to terminate parental rights  
 22 when a parent is incarcerated;

23 (C) R.J.M. v. State, 946 P.2d 855 (Alaska 1997), concerning the type  
 24 of neglect necessary to adjudicate a child in need of aid under AS 47.10.

25 \* **Sec. 2.** AS 10.06.961(a) is amended to read:

26 (a) Notwithstanding AS 13.46.085 or the appointment of a guardian of the  
 27 property of the **child** [MINOR] under **AS 47.10.010** [AS 47.10.010(c)], when a **child**  
 28 [MINOR] who is in the custody of this state under AS 47.10 or **a minor who is in the**

1 custody of this state under AS 47.12 or of another state under a provision similar to  
 2 AS 47.10 or AS 47.12 becomes entitled to receive dividends or other distributions  
 3 resulting from the ownership of stock or a membership in a corporation organized  
 4 under this chapter and under 43 U.S.C. 1601 - 1641 (Alaska Native Claims Settlement  
 5 Act), the corporation paying the dividends or making the other distributions shall retain  
 6 the dividends and other distributions in an interest bearing account for the benefit of  
 7 the child [MINOR] during the state custody.

8 \* **Sec. 3.** AS 11.41.100(a) is amended to read:

9 (a) A person commits the crime of murder in the first degree if

10 (1) with intent to cause the death of another person, the person

11 (A) causes the death of any person; or

12 (B) compels or induces any person to commit suicide through

13 duress or deception; or

14 (2) the person knowingly engages in conduct directed toward [,  
 15 UNDER CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO THE  
 16 VALUE OF HUMAN LIFE, IN A PATTERN OR PRACTICE OF ASSAULT OR  
 17 TORTURE OF] a child under the age of 16, and [ONE OF THE ACTS OF ASSAULT  
 18 OR TORTURE RESULTS IN THE DEATH OF THE CHILD; FOR PURPOSES OF  
 19 THIS PARAGRAPH, A PERSON "ENGAGES IN A PATTERN OR PRACTICE OF  
 20 ASSAULT OR TORTURE" IF] the person with criminal negligence causes  
 21 [INFLICTS] serious physical injury to the child by at least two separate acts, and one  
 22 of the acts results in the death of the child; or

23 (3) the person with criminal negligence causes the death of a child  
 24 under the age of 16 during the course of committing or attempting to commit  
 25 sexual assault in the first degree, sexual abuse of a minor in the first degree, or  
 26 kidnapping.

27 \* **Sec. 4.** AS 11.41.110(a) is amended to read:

28 (a) A person commits the crime of murder in the second degree if

29 (1) with intent to cause serious physical injury to another person or  
 30 knowing that the conduct is substantially certain to cause death or serious physical  
 31 injury to another person, the person causes the death of any person;

1 (2) the person knowingly engages in conduct that results in the death  
2 of another person under circumstances manifesting an extreme indifference to the value  
3 of human life;

4 (3) under circumstances not amounting to murder in the first  
5 degree, acting either alone or with one or more persons, the person commits or  
6 attempts to commit arson in the first degree, kidnapping, sexual assault in the first  
7 degree, sexual assault in the second degree, burglary in the first degree, escape in the  
8 first or second degree, robbery in any degree, or misconduct involving a controlled  
9 substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or  
10 11.71.040(a)(1) or (2) and, in the course of or in furtherance of that crime, or in  
11 immediate flight from that crime, any person causes the death of a person other than  
12 one of the participants; [OR]

13 (4) acting with a criminal street gang, the person commits or attempts  
14 to commit a crime that is a felony and, in the course of or in furtherance of that crime  
15 or in immediate flight from that crime, any person causes the death of a person other  
16 than one of the participants; or

17 (5) the person with criminal negligence causes the death of a child  
18 under the age of 16, and the person has been previously convicted of a crime  
19 involving a child under the age of 16 that was

20 (A) in violation of AS 11.41;

21 (B) in violation of a law or ordinance in another jurisdiction  
22 with elements similar to a crime under AS 11.41; or

23 (C) an attempt, a solicitation, or a conspiracy to commit a  
24 crime listed in (A) or (B) of this paragraph in violation of AS 11.41 or of  
25 a law or ordinance in another jurisdiction with similar elements.

26 \* Sec. 5. AS 11.41.300(a) is amended to read:

27 (a) A person commits the crime of kidnapping if

28 (1) the person restrains another with intent to

29 (A) hold the restrained person for ransom, reward, or other  
30 payment;

31 (B) use the restrained person as a shield or hostage;

1 (C) inflict physical injury upon or sexually assault the restrained  
 2 person or place the restrained person or a third person in apprehension that any  
 3 person will be subjected to serious physical injury or sexual assault;

4 (D) interfere with the performance of a governmental or  
 5 political function;

6 (E) facilitate the commission of a felony or flight after  
 7 commission of a felony; [OR]

8 **(F) commit an offense in violation of AS 11.41.434 -**  
 9 **11.41.438 upon the restrained person or place the restrained person or a**  
 10 **third person in apprehension that a person will be subject to an offense in**  
 11 **violation of AS 11.41.434 - 11.41.438; or**

12 (2) the person restrains another

13 (A) by secreting and holding the restrained person in a place  
 14 where the restrained person is not likely to be found; or

15 (B) under circumstances which expose the restrained person to  
 16 a substantial risk of serious physical injury.

17 \* **Sec. 6.** AS 11.41.300(d) is amended to read:

18 (d) In a prosecution for kidnapping, it is an affirmative defense which reduces  
 19 the crime to a class A felony that the defendant voluntarily caused the release of the  
 20 victim alive in a safe place before arrest, or within 24 hours after arrest, without  
 21 having caused serious physical injury to the victim and without having engaged in  
 22 conduct described in AS 11.41.410(a), [OR] 11.41.420, **11.41.434, or 11.41.436.**

23 \* **Sec. 7.** AS 11.41 is amended by adding a new section to read:

24 **Sec. 11.41.458. Indecent exposure in the first degree.** (a) An offender  
 25 commits the crime of indecent exposure in the first degree if

26 (1) the offender violates AS 11.41.460(a);

27 (2) while committing the act constituting the offense, the offender  
 28 knowingly masturbates; and

29 (3) the offense occurs within the observation of a person under 16 years  
 30 of age.

31 (b) Indecent exposure in the first degree is a class C felony.

1 \* **Sec. 8.** AS 11.41.460 is amended to read:

2 **Sec. 11.41.460. Indecent exposure in the second degree.** (a) An offender  
3 commits the crime of indecent exposure **in the second degree** if the offender  
4 intentionally exposes the offender's genitals to another person with reckless disregard  
5 for the offensive, insulting, or frightening effect the act may have on that person.

6 (b) Indecent exposure **in the second degree** before a person under 16 years  
7 of age is a class A misdemeanor. Indecent exposure **in the second degree** before a  
8 person 16 years of age or older is a class B misdemeanor.

9 \* **Sec. 9.** AS 11.51.100 is repealed and reenacted to read:

10 **Sec. 11.51.100. Endangering the welfare of a child in the first degree.** (a)  
11 A person commits the crime of endangering the welfare of a child in the first degree  
12 if, being a parent, guardian, or other person legally charged with the care of a child  
13 under 16 years of age, the person

14 (1) intentionally deserts the child in a place under circumstances  
15 creating a substantial risk of physical injury to the child;

16 (2) leaves the child with another person who is not a parent, guardian,  
17 or lawful custodian of the child knowing that the person

18 (A) is registered or required to register as a sex offender under  
19 AS 12.63 or a law or ordinance in another jurisdiction with similar  
20 requirements;

21 (B) has been charged by complaint, information, or indictment  
22 with a violation of AS 11.41.410 - 11.41.455 or a law or ordinance in another  
23 jurisdiction with similar elements; or

24 (C) has been charged by complaint, information, or indictment  
25 with an attempt, solicitation, or conspiracy to commit a crime described in (B)  
26 of this paragraph; or

27 (3) leaves the child with another person knowing that the person has  
28 previously physically mistreated or had sexual contact with any child, and the other  
29 person causes physical injury or engages in sexual contact with the child.

30 (b) In this section, "physically mistreated" means

31 (1) having committed an act punishable under AS 11.41.100 -

1 11.41.250; or

2 (2) having applied force to a child that, under the circumstances in  
3 which it was applied, or considering the age or physical condition of the child,  
4 constitutes a gross deviation from the standard of conduct that a reasonable person  
5 would observe in the situation because of the substantial and unjustifiable risk of

6 (A) death;

7 (B) serious or protracted disfigurement;

8 (C) protracted impairment of health;

9 (D) loss or impairment of the function of a body member or  
10 organ;

11 (E) substantial skin bruising, burning, or other skin injury;

12 (F) internal bleeding or subdural hematoma;

13 (G) bone fracture; or

14 (H) prolonged or extreme pain, swelling, or injury to soft tissue.

15 (c) Endangering the welfare of a child in the first degree under (a)(1) or (2) of  
16 this section is a class C felony.

17 (d) Endangering the welfare of a child in the first degree under (a)(3) of this  
18 section is a

19 (1) class B felony if the child dies;

20 (2) class C felony if the child suffers sexual contact, sexual penetration,  
21 or serious physical injury; or

22 (3) class A misdemeanor if the child suffers physical injury.

23 \* **Sec. 10.** AS 11.51 is amended by adding a new section to read:

24 **Sec. 11.51.110. Endangering the welfare of a child in the second degree.**

25 (a) A person commits the crime of endangering the welfare of a child in the second  
26 degree if, being a parent, guardian, or other person legally charged with the care of a  
27 child under 10 years of age, the person, while caring for the child,

28 (1) knowingly possesses a controlled substance that is not authorized  
29 under AS 17.30;

30 (2) is incapacitated by a controlled substance that is authorized under  
31 AS 17.30 and a third person who is at least 12 years of age and not incapacitated by

1 an intoxicant is not present to care for the child; or

2 (3) is incapacitated by an intoxicant that is not authorized under  
3 AS 17.30.

4 (b) In this section,

5 (1) "incapacitated" means that a person is unconscious or the person's  
6 judgment is so impaired that the person is incapable of making rational decisions with  
7 respect to the basic safety or personal needs of a child;

8 (2) "intoxicant" has the meaning given in AS 47.10.990.

9 (c) Endangering the welfare of a child in the second degree is a violation.

10 \* **Sec. 11.** AS 12.55.025(i) is amended to read:

11 (i) Except as provided by AS 12.55.125(a)(3), 12.55.125(k)(2) [12.55.125(k)],  
12 12.55.145(d), 12.55.155(f), and 12.55.165, the preponderance of the evidence standard  
13 of proof applies to sentencing proceedings.

14 \* **Sec. 12.** AS 12.55.125(c) is amended to read:

15 (c) A defendant convicted of a class A felony may be sentenced to a definite  
16 term of imprisonment of not more than 20 years [,] and shall be sentenced to the  
17 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -  
18 12.55.175:

19 (1) if the offense is a first felony conviction and does not involve  
20 circumstances described in (2) of this subsection, five years;

21 (2) if the offense is a first felony conviction

22 (A) [,] other than for manslaughter [,] and the defendant  
23 possessed a firearm, used a dangerous instrument, or caused serious physical  
24 injury during the commission of the offense, or knowingly directed the conduct  
25 constituting the offense at a uniformed or otherwise clearly identified peace  
26 officer, fire fighter, correctional employee, emergency medical technician,  
27 paramedic, ambulance attendant, or other emergency responder who was  
28 engaged in the performance of official duties at the time of the offense, seven  
29 years;

30 (B) for manslaughter and the victim is a child under the age  
31 of 16, seven years;

- 1 (3) if the offense is a second felony conviction, 10 years;  
 2 (4) if the offense is a third felony conviction and the defendant is not  
 3 subject to sentencing under (l) of this section, 15 years.

4 \* **Sec. 13.** AS 12.55.125(k) is amended to read:

5 (k) A first felony offender convicted of an offense for which a presumptive  
 6 term of imprisonment is not specified under this section

7 **(1) may be sentenced to a term of unsuspended imprisonment that**  
 8 **exceeds the presumptive term of a second or third felony offender convicted of the**  
 9 **same crime if the offender is convicted of criminally negligent homicide and the**  
 10 **victim is a child under the age of 16;**

11 **(2) except as provided in (1) of this subsection,** may not be sentenced  
 12 to a term of unsuspended imprisonment that exceeds the presumptive term for a second  
 13 felony offender convicted of the same crime unless the court finds by clear and  
 14 convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or that  
 15 circumstances exist that would warrant a referral to the three-judge panel under  
 16 AS 12.55.165.

17 \* **Sec. 14.** AS 12.55.155(e) is amended to read:

18 (e) If a factor in aggravation is a necessary element of the present offense, or  
 19 requires the imposition of a presumptive term under **AS 12.55.125(c)(2)(A)**  
 20 **[AS 12.55.125(c)(2)]**, that factor may not be used to aggravate the presumptive term.  
 21 If a factor in mitigation is raised at trial as a defense reducing the offense charged to  
 22 a lesser included offense, that factor may not be used to mitigate the presumptive term.

23 \* **Sec. 15.** AS 12.65.005(a) is amended to read:

24 (a) Unless the person has reasonable grounds to believe that notice has already  
 25 been given, a person who attends a death or has knowledge of a death, in addition to  
 26 notifying a peace officer, shall immediately notify the state medical examiner when the  
 27 death appears to have

28 (1) been caused by unknown or criminal means, during the commission  
 29 of a crime, or by suicide, accident, or poisoning;

30 (2) occurred under suspicious or unusual circumstances or occurred  
 31 suddenly when the decedent was in apparent good health;

1 (3) been unattended by a practicing physician or occurred less than 24  
2 hours after the deceased was admitted to a medical facility;

3 (4) been associated with a diagnostic or therapeutic procedure;

4 (5) resulted from a disease that constitutes a threat to public health;

5 (6) been caused by a disease, injury, or toxic agent resulting from  
6 employment;

7 (7) occurred in a jail or corrections facility owned or operated by the  
8 state or a political subdivision of the state or in a facility for the placement of persons  
9 in the custody or under the supervision of the state;

10 (8) occurred in a foster home;

11 (9) occurred in a mental institution or mental health treatment facility;

12 [OR]

13 (10) occurred while the deceased was in the custody of, or was being  
14 taken into the custody of, the state or a political subdivision of the state or a public  
15 officer or agent of the state or a political subdivision of the state; or

16 (11) been of a child under 18 years of age or under the legal custody  
17 of the Department of Health and Social Services, subject to the jurisdiction of  
18 AS 47.10 or AS 47.12, unless the

19 (A) child's death resulted from a natural disease process and  
20 was medically expected; and

21 (B) the child was under supervised medical care during the  
22 24 hours before the death.

23 \* Sec. 16. AS 12.65.015 is amended by adding a new subsection to read:

24 (e) The state medical examiner shall facilitate the formation of local, regional,  
25 or district child fatality review teams to assist local, regional, and district medical  
26 examiners in determining the cause and manner of deaths of children under 18 years  
27 of age. If a team is formed under this subsection, the team shall have the same access  
28 to information, confidentiality requirements, and immunity as provided to the state child  
29 fatality review team under AS 12.65.140. A meeting of a team formed under this  
30 subsection is closed to the public and not subject to the provisions of AS 44.62.310 and  
31 44.62.312. A review by a local, regional, or district child fatality review team does not

1 relieve the state child fatality review team under AS 12.65.120 of the responsibility for  
 2 reviewing a death under AS 12.65.130. A person on a local, regional, or district child  
 3 fatality review team is not eligible to receive compensation from the state for service  
 4 on the team, but is eligible for travel expenses and per diem from the Department of  
 5 Health and Social Services under AS 39.20.180. A person on a team formed under this  
 6 subsection serves at the pleasure of the state medical examiner.

7 \* **Sec. 17.** AS 12.65 is amended by adding new sections to read:

8 **Sec. 12.65.120. State child fatality review team.** (a) The state child fatality  
 9 review team is established in the Department of Health and Social Services to assist the  
 10 state medical examiner. The team is composed of

11 (1) the following persons, or that person's designee:

12 (A) the state medical examiner;

13 (B) a state prosecutor with experience in homicide prosecutions,  
 14 appointed by the attorney general;

15 (C) an investigator with the state troopers who has experience  
 16 in conducting investigations of homicide, child abuse, or child neglect,  
 17 appointed by the commissioner of public safety;

18 (D) a social worker with the Department of Health and Social  
 19 Services who has experience in conducting investigations of child abuse and  
 20 neglect, appointed by the commissioner of health and social services;

21 (2) the following persons, or that person's designee, appointed by the  
 22 commissioner of health and social services:

23 (A) a physician licensed under AS 08.64 who

24 (i) specializes in neonatology or perinatology; or

25 (ii) is certified by the American Board of Pediatrics;

26 (B) a municipal law enforcement officer with experience in  
 27 conducting investigations of homicide, child abuse, or child neglect;

28 (C) other persons whose experience and expertise would, as  
 29 determined by the commissioner of health and social services, contribute to the  
 30 effectiveness of the team.

31 (b) A team member is not eligible to receive compensation from the state for

1 service on the team. A member appointed under (a)(2) of this section

2 (1) is eligible for travel expenses and per diem from the Department of  
3 Health and Social Services under AS 39.20.180; and

4 (2) serves at the pleasure of the commissioner of health and social  
5 services.

6 (c) In addition to the persons specified in (a) of this section, the team may  
7 invite a person to participate as a member of the team if the person has expertise that  
8 would be helpful to the team in a review of a specific death. A person participating  
9 under this subsection is eligible only for travel expenses and per diem from the  
10 Department of Health and Social Services under AS 39.20.180.

11 (d) The state medical examiner serves as chair of the team.

12 **Sec. 12.65.130. State child fatality review team duties.** (a) The state child  
13 fatality review team shall

14 (1) assist the state medical examiner in determining the cause and  
15 manner of the deaths in this state of children under 18 years of age;

16 (2) unless the child's death is currently being investigated by a law  
17 enforcement agency, review a report of a death of a child within 48 hours of the report  
18 being received by the medical examiner if

19 (A) the death is of a child under 10 years of age;

20 (B) the deceased child, a sibling, or a member of the deceased  
21 child's household

22 (i) is in the legal or physical custody of the state under  
23 AS 47 or under similar custody of another state or political subdivision  
24 of a state; or

25 (ii) has been the subject of a report of harm under  
26 AS 47.17 or a child abuse or neglect investigation by the Department of  
27 Health and Social Services or by a similar child protective service in this  
28 or another state;

29 (C) a protective order under AS 18.66.100 or 18.66.110 has been  
30 in effect during the previous year in which the petitioner or respondent was a  
31 member of the deceased child's immediate family or household; or

1 (D) the child's death occurred in a mental health institution,  
2 mental health treatment facility, foster home, or other residential or child care  
3 facility, including a day care facility;

4 (3) review records concerning

5 (A) abuse or neglect of the deceased child or another child in the  
6 deceased child's household;

7 (B) the criminal history or juvenile delinquency of a person who  
8 may have caused the death of the child and of persons in the deceased child's  
9 household; and

10 (C) a history of domestic violence involving a person who may  
11 have caused the death of the child or involving persons in the deceased child's  
12 household, including records in the central registry of protective orders under  
13 AS 18.65.540;

14 (4) if insufficient information exists to adequately determine the cause  
15 and manner of death, recommend to the state medical examiner that additional  
16 information be obtained under AS 12.65.020; and

17 (5) if a local, regional, or district child fatality review team has not been  
18 appointed under AS 12.65.015 or is not available, be available to provide  
19 recommendations, suggestions, and advice to state or municipal law enforcement or  
20 social service agencies in the investigation of deaths of children.

21 (b) The state child fatality review team may

22 (1) collect data and analyze and interpret information regarding deaths  
23 of children in this state;

24 (2) develop state and local data bases on deaths of children in this state;

25 (3) develop a model protocol for the investigation of deaths of children;

26 and

27 (4) periodically issue reports to the public containing statistical data and  
28 other information that does not violate federal or state law concerning confidentiality  
29 of the children and their families involved in the reviews; these reports may include

30 (A) identification of trends, patterns, and risk factors in deaths  
31 of the children;

1 (B) analyses of the incidence and causes of deaths of children  
2 in this state;

3 (C) recommendations for improving the coordination of  
4 government services and investigations; and

5 (D) recommendations for prevention of future deaths of children.

6 **Sec. 12.65.140. Records; information; meetings; confidentiality; immunity.**

7 (a) The state child fatality review team and its members shall have access to all  
8 information and records to which the state medical examiner has access under this  
9 chapter. The state child fatality review team and its members shall maintain the  
10 confidentiality of information and records concerning deaths under review, except when  
11 disclosures may be necessary to enable the team to carry out its duties under this  
12 chapter. However, the team and its members may not disclose a record that is  
13 confidential under federal or state law.

14 (b) Except for public reports issued by the team, records, and other information  
15 collected by the team or a member of the team related to duties under this chapter are  
16 confidential and not subject to public disclosure under AS 09.25.100 - 09.25.220.

17 (c) Meetings of the state child fatality review team are closed to the public and  
18 are not subject to the provisions of AS 44.62.310 and 44.62.312.

19 (d) The determinations, conclusions, and recommendations of the state child  
20 fatality review team, or its members, are not admissible in a civil or criminal  
21 proceeding. Members may not be compelled to disclose their determinations,  
22 conclusions, recommendations, discussions, or thought processes through discovery or  
23 testimony in any civil or criminal proceeding. Records and information collected by  
24 the state child fatality review team are not subject to discovery or subpoena in  
25 connection with a civil or criminal proceeding.

26 (e) Notwithstanding (d) of this section, the state medical examiner may testify  
27 in a civil or criminal proceeding even though the death was reviewed by the state child  
28 fatality review team under AS 12.65.130 and information received from the review  
29 formed a basis of the state medical examiner's testimony.

30 (f) A person who is a member or an employee of, or who furnishes services to  
31 or advises, the state child fatality review team is not liable for damages or other relief

1 in an action brought by reason of the performance of a duty, a function, or an activity  
2 of the review team.

3 \* **Sec. 18.** AS 14.20.020(f) is amended to read:

4 (f) **The** [EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,  
5 THE] department may not issue a teacher certificate to a person who has been  
6 convicted of a crime involving a minor under AS 11.41.434 - 11.41.440, 11.41.455,  
7 **11.41.458**, or 11.41.460, or under a law in another jurisdiction with elements  
8 substantially similar to an offense described in AS 11.41.434 - 11.41.440, 11.41.455,  
9 **11.41.458**, or 11.41.460, **or that is an attempt, solicitation, or conspiracy to commit**  
10 **a crime described in this subsection or a law or ordinance in another jurisdiction**  
11 **with similar elements.** [WHEN FIVE YEARS HAVE ELAPSED AFTER A PERSON  
12 HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR A CONVICTION OF  
13 A CRIME LISTED IN THIS SUBSECTION, THE PERSON MAY PETITION THE  
14 DEPARTMENT TO ISSUE THE CERTIFICATE IN SPITE OF THE CONVICTION  
15 IF THE PERSON OTHERWISE SATISFIES THE REQUIREMENTS FOR THE  
16 CERTIFICATE. WHEN DECIDING WHETHER TO GRANT OR DENY THE  
17 PETITION, THE DEPARTMENT SHALL CONSIDER THE NATURE OF THE  
18 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS  
19 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE  
20 DEPARTMENT DETERMINES ARE SIGNIFICANT.]

21 \* **Sec. 19.** AS 14.20.030(b) is amended to read:

22 (b) **Upon receipt of a judgment of conviction, the department** [THE  
23 COMMISSIONER OR THE PROFESSIONAL TEACHING PRACTICES  
24 COMMISSION] shall **permanently** revoke, **effective immediately,** [FOR LIFE] the  
25 certificate of a person who has been convicted of a crime involving a minor under  
26 AS 11.41.434 - 11.41.440, 11.41.455, **11.41.458**, or 11.41.460, or under a law in  
27 another jurisdiction with elements substantially similar to an offense described in  
28 AS 11.41.434 - 11.41.440, 11.41.455, **11.41.458**, or 11.41.460, **or that is an attempt,**  
29 **solicitation, or conspiracy to commit a crime described in this subsection or a law**  
30 **or ordinance in another jurisdiction with similar elements. If the judgment of**  
31 **conviction is reversed on appeal and the person is otherwise eligible for licensure,**

1 **the department shall reinstate the license.** [WHEN FIVE YEARS HAVE ELAPSED  
 2 AFTER THE PERSON HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR  
 3 THE CONVICTION, THE PERSON MAY PETITION THE COMMISSION FOR  
 4 RECERTIFICATION. WHEN DECIDING WHETHER TO GRANT OR DENY THE  
 5 PETITION, THE COMMISSION SHALL CONSIDER THE NATURE OF THE  
 6 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS  
 7 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE COMMISSION  
 8 DETERMINES ARE SIGNIFICANT.]

9 \* **Sec. 20.** AS 22.15.100 is amended to read:

10 **Sec. 22.15.100. Functions and powers of district judge and magistrate.**

11 Each district judge and magistrate has the power

12 (1) to issue writs of habeas corpus for the purpose of inquiring into the  
 13 cause of restraint of liberty, returnable before a judge of the superior court, and the  
 14 same proceedings shall be had on the writ as if it had been granted by the superior  
 15 court judge under the laws of the state in such cases;

16 (2) of a notary public;

17 (3) to solemnize marriages;

18 (4) to issue warrants of arrest, summons, and search warrants according  
 19 to manner and procedure prescribed by law and the supreme court;

20 (5) to act as an examining judge or magistrate in preliminary  
 21 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the  
 22 release of defendants under bail;

23 (6) to act as a referee in matters and actions referred to the judge or  
 24 magistrate by the superior court, with all powers conferred upon referees by laws;

25 (7) of the superior court in all respects including but not limited to  
 26 contempts, attendance of witnesses, and bench warrants;

27 (8) to order the temporary detention of a minor, or take other action  
 28 authorized by law or rules of procedure, in cases arising under **AS 47.10** [AS 47.10.010  
 29 - 47.10.142] or AS 47.12, when the minor is in a condition or surrounding dangerous  
 30 or injurious to the welfare of the minor or others that requires immediate action; the  
 31 action may be continued in effect until reviewed by the superior court in accordance

1 with rules of procedure governing these cases;

2 (9) to issue a protective order in cases involving domestic violence as  
3 provided in AS 18.66.100 - 18.66.180;

4 (10) to review an administrative revocation of a person's driver's license  
5 or nonresident privilege to drive, and an administrative refusal to issue an original  
6 license, when designated as a hearing officer by the commissioner of administration and  
7 with the consent of the administrative director of the state court system;

8 (11) to establish the fact of death or inquire into the death of a person  
9 in the manner prescribed under AS 09.55.020 - 09.55.069.

10 \* **Sec. 21.** AS 25.20.061 is amended to read:

11 **Sec. 25.20.061. Presumptions [VISITATION] in proceedings involving**  
12 **domestic violence. (a) If the court finds in a proceeding involving child custody**  
13 **that domestic violence has occurred, rebuttable presumptions arise that it is**

14 **(1) detrimental to the child and not in the best interest of the child**  
15 **to be placed in sole custody, joint legal custody, or joint physical custody with the**  
16 **perpetrator of the domestic violence; and**

17 **(2) in the best interest of the child to reside with the parent who is**  
18 **not a perpetrator of domestic violence in a location of that parent's choice, inside**  
19 **or outside the state.**

20 **(b) In addition to the rebuttable presumptions that a court must consider**  
21 **under (a) of this section, if the court finds that domestic violence has occurred, the**  
22 **court shall consider the following factors in making an award of child custody:**

23 **(1) the safety and well-being of the child or of the parent who is the**  
24 **victim of domestic violence;**

25 **(2) the perpetrator's history of causing physical harm, bodily injury,**  
26 **or assault, or of causing reasonable fear of physical harm, bodily injury, or assault**  
27 **to another person.**

28 **(c) If a parent is absent or relocates because of an act of domestic violence**  
29 **by the other parent, the court may not consider the absence or relocation as a**  
30 **factor against that parent in determining custody.**

31 **(d) The court may award [IF] visitation [IS AWARDED] to a parent who has**

1 committed a crime involving domestic violence, against the other parent or a child of  
 2 the two parents, only if the court finds the safety of the child and the other parent  
 3 can be protected.

4 (e) If visitation is awarded under (d) of this section [WITHIN THE FIVE  
 5 YEARS PRECEDING THE AWARD OF VISITATION], the court may set conditions  
 6 for the visitation, including the following:

7 (1) the transfer of the child for visitation must occur in a protected  
 8 setting;

9 (2) visitation shall be supervised by another person or agency and under  
 10 specified conditions as ordered by the court;

11 (3) the perpetrator shall attend and complete, to the satisfaction of the  
 12 court, a program for the rehabilitation of perpetrators of domestic violence that meets  
 13 the standards set by the Department of Corrections under AS 44.28.020(b), or other  
 14 counseling; the perpetrator shall be required to pay the costs of the program or other  
 15 counseling;

16 (4) the perpetrator shall abstain from possession or consumption of  
 17 alcohol or controlled substances during the visitation and for 24 hours before visitation;

18 (5) the perpetrator shall pay costs of supervised visitation as set by the  
 19 court;

20 (6) the prohibition of overnight visitation;

21 (7) the perpetrator shall post a bond to the court for the return and  
 22 safety of the child; and

23 (8) any other condition necessary for the safety of the child, the other  
 24 parent, or other household member.

25 \* **Sec. 22.** AS 25.20.070 is amended to read:

26 **Sec. 25.20.070. Temporary custody of the child.** Unless it is shown to be  
 27 detrimental to the welfare of the child or the court determines that domestic violence  
 28 has occurred, the child shall have, to the greatest degree practical, equal access to both  
 29 parents during the time that the court considers an award of custody under  
 30 AS 25.20.060 - 25.20.130.

31 \* **Sec. 23.** AS 25.20.090 is amended to read:

1                   **Sec. 25.20.090. Factors for consideration in awarding shared child custody.**

2                   In determining whether to award shared custody of a child the court shall consider

3                               (1) **presumptions under AS 25.20.061;**

4                               (2) the child's preference if the child is of sufficient age and capacity  
5                   to form a preference;

6                               (3) [(2)] the needs of the child;

7                               (4) [(3)] the stability of the home environment likely to be offered by  
8                   each parent;

9                               (5) [(4)] the education of the child;

10                              (6) [(5)] the advantages of keeping the child in the community where  
11                   the child presently resides;

12                              (7) [(6)] the optimal time for the child to spend with each parent  
13                   considering

14                                       (A) the actual time spent with each parent;

15                                       (B) the proximity of each parent to the other and to the school  
16                   in which the child is enrolled;

17                                       (C) the feasibility of travel between the parents;

18                                       (D) special needs unique to the child that may be better met by  
19                   one parent than the other;

20                                       (E) which parent is more likely to encourage frequent and  
21                   continuing contact with the other parent;

22                               (8) [(7)] any findings and recommendations of a neutral mediator;

23                               (9) [(8)] any evidence of domestic violence, child abuse, or child neglect  
24                   in the proposed custodial household or a history of violence between the parents;

25                               (10) [(9)] evidence that substance abuse by either parent or other  
26                   members of the household directly affects the emotional or physical well-being of the  
27                   child;

28                               (11) [(10)] other factors the court considers pertinent.

29                   \* **Sec. 24.** AS 25.23.180(c) is amended to read:

30                               (c) The relationship of parent and child may be terminated by a court order  
31                   issued in connection with a proceeding under this chapter or a proceeding under

1 AS 47.10 **on the grounds** [:]

2 (1) [ON THE GROUNDS] specified in **AS 47.10.080(o) or 47.10.088**  
3 [AS 47.10.080(c)(3)];

4 (2) [ON THE GROUNDS] that a parent who does not have custody is  
5 unreasonably withholding consent to adoption, contrary to the best interest of the minor  
6 child; or

7 (3) [ON GROUNDS] that the parent committed an act constituting  
8 sexual assault or sexual abuse of a minor under the laws of this state or a comparable  
9 offense under the laws of the state where the act occurred that resulted in conception  
10 of the child and that termination of the parental rights of the biological parent is in the  
11 best interests of the child.

12 \* **Sec. 25.** AS 25.24.150(c) is amended to read:

13 (c) The court shall determine custody in accordance with the best interests of  
14 the child under AS 25.20.060 - 25.20.130. In determining the best interests of the child  
15 the court shall consider

16 (1) **presumptions under AS 25.20.061;**

17 (2) the physical, emotional, mental, religious, and social needs of the  
18 child;

19 (3) [(2)] the capability and desire of each parent to meet these needs;

20 (4) [(3)] the child's preference if the child is of sufficient age and  
21 capacity to form a preference;

22 (5) [(4)] the love and affection existing between the child and each  
23 parent;

24 (6) [(5)] the length of time the child has lived in a stable, satisfactory  
25 environment and the desirability of maintaining continuity;

26 (7) [(6)] the desire and ability of each parent to allow an open and  
27 loving frequent relationship between the child and the other parent;

28 (8) [(7)] any evidence of domestic violence, child abuse, or child neglect  
29 in the proposed custodial household or a history of violence between the parents;

30 (9) [(8)] evidence that substance abuse by either parent or other  
31 members of the household directly affects the emotional or physical well-being of the

1 child;

2 (10) [(9)] other factors that the court considers pertinent.

3 \* **Sec. 26.** AS 43.23.065(b) is amended to read:

4 (b) An exemption is not available under this section for permanent fund  
5 dividends taken to satisfy

6 (1) child support obligations required by court order or decision of the  
7 child support enforcement agency under AS 25.27.140 - 25.27.220;

8 (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,  
9 or AS 47.12.120(b)(4);

10 (3) claims on defaulted scholarship loans under AS 43.23.067;

11 (4) court ordered fines;

12 (5) writs of execution under AS 09.35 of a judgment that is entered

13 (A) against a minor in a civil action to recover damages and  
14 court costs;

15 (B) under AS 34.50.020 against the parent, parents, or legal  
16 guardian of an unemancipated minor;

17 (6) a debt owed by an eligible individual to an agency of the state,  
18 unless the debt is contested and an appeal is pending, or the time limit for filing an  
19 appeal has not expired;

20 (7) a debt owed to a person for a program for the rehabilitation of  
21 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),  
22 AS 25.20.061(e)(3) [AS 25.20.061(3)], or AS 33.16.150(f)(2).

23 \* **Sec. 27.** AS 47.05 is amended by adding a new section to read:

24 **Sec. 47.05.065. Legislative findings related to children.** The legislature finds  
25 that

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

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

30 (B) the right and responsibility to protect, nurture, train, and  
31 discipline the child;

1 (C) the right to determine where and with whom the child shall  
2 live;

3 (D) the rights and responsibility to make decisions of legal or  
4 financial significance concerning the child;

5 (E) the right to obtain representation for the child in legal  
6 actions; and

7 (F) the responsibility to provide special safeguards and care,  
8 including appropriate protection for the child;

9 (2) it is the policy of the state to recognize that the purpose of this title  
10 and the services provided to families under this title is to protect children from child  
11 abuse and neglect and to preserve and strengthen the family and that

12 (A) except in those cases involving serious risk to a child's  
13 health or safety, the Department of Health and Social Services should make  
14 reasonable efforts to offer appropriate family support services that identify and  
15 provide to parents and guardians the necessary opportunities to adjust their  
16 circumstances, conduct, or conditions to prevent removal of a child from the  
17 home and, if the child is removed, to make return of the child possible so as to  
18 prevent termination of parental rights; and

19 (B) when a child is removed from the home, the department  
20 should make reasonable efforts to provide weekly supervised or unsupervised  
21 visitation between the child and the child's parent or guardian and extended  
22 family members unless a mental health practitioner experienced with treating  
23 children has determined that the visitation would be harmful to the child;

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

31 (4) it is in the best interests of a child who has been removed from the

1 child's own home for the state to apply the following principles in resolving the  
2 situation:

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

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

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

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

10 (E) immediate and regular visitation between the child and the  
11 child's parent or guardian and extended family members should be encouraged;  
12 and

13 (F) parents and guardians must actively participate in family  
14 support services so as to facilitate the child's being able to remain in the home;  
15 when children are removed from the home, the parents and guardians must  
16 actively participate in family support services to make return of their children  
17 to the home possible;

18 (5) parents and guardians have the right to direct the upbringing of their  
19 children, including their medical care and the right to exercise reasonable corporal  
20 discipline;

21 (6) numerous studies establish that

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

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

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

1 \* **Sec. 28.** AS 47.05 is amended by adding a new section to read:

2 **Sec. 47.05.090. Authorization of the Interstate Compact on Adoption and**  
3 **Medical Assistance.** (a) The Department of Health and Social Services may, on  
4 behalf of the state, enter into the Interstate Compact on Adoption and Medical  
5 Assistance and supplementary agreements with agencies of other states for the provision  
6 of adoption and medical assistance under AS 47.07 and other provisions of this title for  
7 eligible children with special needs.

8 (b) In this section, "state" includes a state, territory, possession, or  
9 commonwealth of the United States.

10 \* **Sec. 29.** AS 47.10 is amended by adding a new section to read:

11 **Sec. 47.10.005. Construction.** The provisions of this chapter shall be liberally  
12 construed to the end that a child coming within the jurisdiction of the court under this  
13 chapter may receive the care, guidance, treatment, and control that will promote the  
14 child's welfare.

15 \* **Sec. 30.** AS 47.10.010 is repealed and reenacted to read:

16 **Sec. 47.10.010. Jurisdiction.** (a) Proceedings relating to a child under 18  
17 years of age residing or found in the state are governed by this chapter when the child  
18 is alleged to be or may be determined by the court to be a child in need of aid under  
19 AS 47.10.011.

20 (b) In a controversy concerning custody of a child under this chapter, the court  
21 may appoint a guardian of the person and property of a child, may appoint an attorney  
22 to represent the legal interests of the child, and may order support from either or both  
23 parents. Custody of a child may be given to the department and payment of support  
24 money to the department may be ordered by a court.

25 \* **Sec. 31.** AS 47.10 is amended by adding new sections to read:

26 **Sec. 47.10.011. Children in need of aid.** Subject to AS 47.10.019, the court  
27 may find a child to be a child in need of aid if it finds by a preponderance of the  
28 evidence that the child has been subjected to any of the following:

29 (1) a parent or guardian has abandoned the child as described in  
30 AS 47.10.013, and the other parent is absent or has committed conduct or created  
31 conditions that cause the child to be a child in need of aid under this chapter;

1                   (2) a parent, guardian, or custodian is incarcerated, the other parent is  
2 absent or has committed conduct or created conditions that cause the child to be a child  
3 in need of aid under this chapter, and the incarcerated parent has not made satisfactory  
4 arrangements for the child;

5                   (3) a custodian with whom the child has been left is unwilling or unable  
6 to provide care, supervision, or support for the child, and the whereabouts of the parent  
7 or guardian is unknown;

8                   (4) the child is in need of medical treatment to cure, alleviate, or  
9 prevent substantial physical harm or is in need of treatment for mental injury, and the  
10 child's parent, guardian, or custodian has knowingly failed to provide the treatment;

11                   (5) the child is habitually absent from home or refuses to accept  
12 available care and the child's conduct threatens the child's physical or emotional health  
13 or safety;

14                   (6) the child has suffered substantial physical harm, or there is a  
15 substantial risk that the child will suffer substantial physical harm, as a result of  
16 conduct by or conditions created by the child's parent, guardian, or custodian or by the  
17 failure of the parent, guardian, or custodian to supervise the child adequately;

18                   (7) the child has suffered sexual abuse, or there is a substantial risk that  
19 the child will suffer sexual abuse, as a result of conduct by or conditions created by the  
20 child's parent, guardian, or custodian or by the failure of the parent, guardian, or  
21 custodian to adequately supervise the child; if a parent, guardian, or custodian has  
22 actual notice that a person has been convicted of a sex offense against a minor within  
23 the past 15 years, is registered or required to register as a sex offender under AS 12.63,  
24 or is under investigation for a sex offense against a minor, and the parent, guardian, or  
25 custodian subsequently allows a child to be left with that person, this conduct  
26 constitutes prima facie evidence that the child is at substantial risk of being sexually  
27 abused;

28                   (8) conduct by or conditions created by the parent, guardian, or  
29 custodian have resulted in mental injury to the child;

30                   (9) conduct by or conditions created by the parent, guardian, or  
31 custodian have subjected the child or another child in the same household to neglect;

1           (10) the parent, guardian, or custodian's ability to parent has been  
2 substantially impaired by the addictive or habitual use of an intoxicant; if a court has  
3 previously found that a child is a child in need of aid under this paragraph, the  
4 resumption of use of an intoxicant by a parent, guardian, or custodian within one year  
5 after rehabilitation is prima facie evidence that the ability to parent is substantially  
6 impaired as described in this paragraph;

7           (11) the parent, guardian, or custodian has a mental illness, serious  
8 emotional disturbance, or mental deficiency of a nature and duration that has caused  
9 substantial physical harm to the child or creates a risk of substantial physical harm to  
10 the child;

11           (12) the child has committed an illegal act as a result of pressure,  
12 guidance, or approval from the child's parent, guardian, or custodian.

13           **Sec. 47.10.013. Abandonment.** For purposes of this chapter, the court may  
14 find abandonment of a child if a parent or guardian has shown a conscious disregard  
15 of parental responsibilities toward the child by failing to provide reasonable support,  
16 maintain regular contact, or provide normal supervision and the failure is accompanied  
17 by intention on the part of the parent or guardian to permit the failure to continue for  
18 an indefinite period. Abandonment of a child also includes instances when the parent  
19 or guardian, without justifiable cause,

20           (1) left the child with another person without provision for the child's  
21 support and without meaningful communication with the child for a period of three  
22 months;

23           (2) has made only minimal efforts to support and communicate with the  
24 child;

25           (3) failed for a period of at least six months to maintain regular  
26 visitation with the child;

27           (4) failed to participate in a suitable plan or program designed to reunite  
28 the parent or guardian with the child;

29           (5) left the child without affording means of identifying the child and  
30 the child's parent or guardian;

31           (6) was absent from the home for a period of time that created a

1 substantial risk of serious harm to a child left in the home;

2 (7) failed to respond to notice of child protective proceedings; or

3 (8) was unwilling to provide care, support, or supervision for the child.

4 **Sec. 47.10.014. Neglect.** For purposes of this chapter, the court may find  
5 neglect of a child if the parent, guardian, or custodian fails to provide the child with  
6 adequate food, clothing, shelter, education, medical attention, or other care and control  
7 necessary for the child's physical and mental health and development, though  
8 financially able to do so or offered financial or other reasonable means to do so.

9 **Sec. 47.10.015. Physical harm.** For the purposes of this chapter, the court may  
10 find physical harm to a child or substantial risk of physical harm to a child if

11 (1) the child was the victim of an act described in AS 11.41.100 -  
12 11.41.250, 11.41.300, 11.41.410 - 11.41.455, or AS 11.51.100 and the physical harm  
13 occurred as a result of conduct by or conditions created by a parent, guardian, or  
14 custodian; or

15 (2) a negligent act or omission by a parent, guardian, or custodian  
16 creates a substantial risk of injury to the child.

17 **Sec. 47.10.019. Limitations on determinations.** Notwithstanding other  
18 provisions of this chapter, the court may not find a minor to be a child in need of aid  
19 under this chapter solely on the basis that the child's family is poor, lacks adequate  
20 housing, or exhibits a lifestyle that is different from the generally accepted lifestyle  
21 standard of the community where the family lives. However, this section may not be  
22 construed to prevent a court from finding that a child is in need of aid if the child has  
23 been subjected to conduct or conditions described in AS 47.10.011 - 47.10.015.

24 \* **Sec. 32.** AS 47.10.020(a) is amended to read:

25 (a) Whenever circumstances subject a **child** [MINOR] to the jurisdiction of **the**  
26 **court under AS 47.10.005 - 47.10.142** [AS 47.10.010 - 47.10.142], the court shall  
27 appoint a competent person or agency to make a preliminary inquiry and report for the  
28 information of the court to determine whether the **best** interests of the **child** [MINOR]  
29 require that further action be taken. **If** [; IF], under this subsection, the court appoints  
30 a person or agency to make a preliminary inquiry and to report to it, then, upon the  
31 receipt of the report, the court may

1                   **(1) close** [INFORMALLY ADJUST] the matter without a **court** hearing;  
2                   **(2) determine whether the best interests of the child require that**  
3                   **further action be taken;** [,] or

4                   **(3)** [IT MAY] authorize the person **or agency** having knowledge of the  
5 facts of the case to file with the court a petition setting out the facts[; IF THE COURT  
6 INFORMALLY ADJUSTS THE MATTER, THE MINOR MAY NOT BE DETAINED  
7 OR TAKEN INTO THE CUSTODY OF THE COURT AS A CONDITION OF THE  
8 ADJUSTMENT, AND THE MATTER SHALL BE CLOSED BY THE COURT UPON  
9 ADJUSTMENT].

10 \* **Sec. 33.** AS 47.10.020(b) is amended to read:

11                   (b) The petition and all subsequent pleadings shall be styled as follows: "In the  
12 matter of . . . . ., a **child** [MINOR] under 18 years of age."  
13 The petition may be executed upon the petitioner's information and belief [,] and must  
14 be verified. It must include the following information:

15                   (1) the name, address, and occupation of the petitioner, together with  
16 the petitioner's relationship to the **child** [MINOR], and the petitioner's interest in the  
17 matter;

18                   (2) the name, age, and address of the **child** [MINOR];

19                   (3) a brief statement of the facts that bring the **child** [MINOR] within  
20 this chapter;

21                   (4) the names and addresses of the **child's** [MINOR'S] parents;

22                   (5) **the tribal affiliation, if known, of the child;**

23                   (6) the name and address of the **child's** [MINOR'S] guardian [,] or of  
24 the person having control or custody of the **child** [MINOR].

25 \* **Sec. 34.** AS 47.10.030(b) is amended to read:

26                   (b) In all cases under this chapter, the **child** [MINOR], each parent, **foster**  
27 **parent or other out-of-home care provider,** [OF THE MINOR AND THE] guardian,  
28 **and guardian ad litem** of the **child** [MINOR] shall be given notice adequate to give  
29 actual notice of the proceedings and the possibility of termination of parental rights and  
30 responsibilities, taking into account education and language differences that are known  
31 or reasonably ascertainable by the petitioner or the department. The notice of the

1 hearing must contain all names by which the **child** [MINOR] has been identified.  
 2 Notice shall be given in the manner appropriate under rules of civil procedure for the  
 3 service of process in a civil action under Alaska law or in any manner the court by  
 4 order directs. Proof of the giving of the notice shall be filed with the court before the  
 5 petition is heard. The court may also subpoena the parent of the **child** [MINOR], or  
 6 any other person whose testimony may be necessary at the hearing. A subpoena or  
 7 other process may be served by a person authorized by law to make the service, and,  
 8 where personal service cannot be made, the court may direct that service of process be  
 9 in a manner appropriate under rules of civil procedure for the service of process in a  
 10 civil action under Alaska law or in any manner the court directs.

11 \* **Sec. 35.** AS 47.10.050(a) is amended to read:

12 (a) Whenever in the course of proceedings instituted under this chapter it  
 13 appears to the court that the welfare of a **child** [MINOR] will be promoted by the  
 14 appointment of an attorney to represent the **child** [MINOR OR AN ATTORNEY OR  
 15 OTHER PERSON TO SERVE AS GUARDIAN AD LITEM], the court may make the  
 16 appointment. **If it appears to the court that the welfare of a child in the proceeding**  
 17 **will be promoted by the appointment of a guardian ad litem, the court shall make**  
 18 **the appointment.** Appointment of a guardian ad litem or attorney shall be made under  
 19 the terms of AS 25.24.310.

20 \* **Sec. 36.** AS 47.10.070(a) is amended to read:

21 (a) The court may conduct the hearing on the petition in an informal manner  
 22 in the courtroom or in chambers. The court shall give notice of the hearing to the  
 23 department, and it may send a representative to the hearing. The court shall also  
 24 transmit a copy of the petition to the department. **The department shall send notice**  
 25 **of the hearing to the persons for whom notice is required under AS 47.10.030(b).**  
 26 The **department and the persons to whom the department must send notice of the**  
 27 **hearing are entitled to** [REPRESENTATIVE OF THE DEPARTMENT MAY ALSO]  
 28 be heard at the hearing. **However, the court may limit the presence of the foster**  
 29 **parent or other out-of-home care provider to the time during which the person's**  
 30 **testimony is being given if it is (1) in the best interest of the child; or (2) necessary**  
 31 **to protect the privacy interests of the parties and will not be detrimental to the**

1 **child.** The public shall be excluded from the hearing, but the court, in its discretion,  
 2 may permit individuals to attend a hearing if their attendance is compatible with the  
 3 best interests of the **child** [MINOR].

4 \* **Sec. 37.** AS 47.10.080(a) is amended to read:

5 (a) **An adjudication hearing shall be completed within 120 days after a**  
 6 **finding of probable cause is entered unless the court finds good cause to continue**  
 7 **the hearing.** The court, at the conclusion of the hearing, [OR THEREAFTER] as the  
 8 circumstances of the case may require, shall find and enter a judgment that the **child**  
 9 [MINOR] is or is not a child in need of aid.

10 \* **Sec. 38.** AS 47.10.080(c) is amended to read:

11 (c) If the court finds that the **child** [MINOR] is a child in need of aid, **the**  
 12 **court** [IT] shall

13 (1) order the **child** [MINOR] committed to the department for placement  
 14 in an appropriate setting for a period of time not to exceed two years or in any event  
 15 past the date the **child** [MINOR] becomes 19 years of age, except that the department  
 16 **or the child's guardian ad litem** may petition for and the court may grant in a hearing  
 17 (A) **one-year** [TWO-YEAR] extensions of commitment that do not extend beyond the  
 18 **child's** [MINOR'S] 19th birthday if the extension is in the best interests of the **child**  
 19 [MINOR]; and (B) an additional one-year period of **state custody** [SUPERVISION]  
 20 past age 19 if the continued **state custody** [SUPERVISION] is in the best interests of  
 21 the person and the person consents to it; the department may transfer the **child**  
 22 [MINOR], in the **child's** [MINOR'S] best interests, from one placement setting to  
 23 another, and the **child** [MINOR], the **child's** [MINOR'S] parents or guardian, **the**  
 24 **child's foster parents or out-of-home relative caregiver, the child's health care**  
 25 **providers, the child's guardian ad litem,** [AND] the **child's** [MINOR'S] attorney ,  
 26 **and the child's tribe, if known,** are entitled to reasonable notice of the transfer;

27 (2) order the **child** [MINOR] released to **a parent, relative, or**  
 28 **guardian of the child** [THE MINOR'S PARENTS, GUARDIAN,] or **to another**  
 29 [SOME OTHER] suitable person, and, in appropriate cases, order the **parent, relative**  
 30 [PARENTS], guardian, or other person to provide medical or other care and treatment;  
 31 if the court releases the **child** [MINOR], it shall direct the department to supervise the

1 care and treatment given to the **child** [MINOR], but the court may dispense with the  
 2 department's supervision if the court finds that the adult to whom the **child** [MINOR]  
 3 is released will adequately care for the **child** [MINOR] without supervision; the  
 4 department's supervision may not exceed two years or in any event extend past the date  
 5 the **child** [MINOR] reaches age 19, except that the department **or the child's guardian**  
 6 **ad litem** may petition for and the court may grant in a hearing

7 (A) **one-year** [TWO-YEAR] extensions of supervision that do  
 8 not extend beyond the **child's** [MINOR'S] 19th birthday if the **extensions are**  
 9 [EXTENSION] is in the best interests of the **child** [MINOR]; and

10 (B) an additional one-year period of supervision past age 19 if  
 11 the continued supervision is in the best interests of the person and the person  
 12 consents to it; or

13 (3) by order, **under the grounds specified in (o) of this section or**  
 14 **AS 47.10.088, the termination of** [UPON A SHOWING IN THE ADJUDICATION  
 15 BY CLEAR AND CONVINCING EVIDENCE THAT THERE IS A CHILD IN NEED  
 16 OF AID UNDER AS 47.10.010(a) AS A RESULT OF PARENTAL CONDUCT AND  
 17 UPON A SHOWING IN THE DISPOSITION BY CLEAR AND CONVINCING  
 18 EVIDENCE THAT THE PARENTAL CONDUCT IS LIKELY TO CONTINUE TO  
 19 EXIST IF THERE IS NO TERMINATION OF PARENTAL RIGHTS, TERMINATE]  
 20 parental rights and responsibilities of one or both parents [,] and commit the child to  
 21 the **custody of the** department [OR TO A LEGALLY APPOINTED GUARDIAN OF  
 22 THE PERSON OF THE CHILD], and the department [OR GUARDIAN] shall report  
 23 **quarterly** [ANNUALLY] to the court on efforts being made to find a permanent  
 24 placement for the child.

25 \* **Sec. 39.** AS 47.10.080(f) is amended to read:

26 (f) A **child** [MINOR] found to be a child in need of aid is a ward of the state  
 27 while committed to the department or the department has the power to supervise the  
 28 **child's** [MINOR'S] actions. **After the permanency hearing required by (l) of this**  
 29 **section, the** [THE] court shall **hold a permanency hearing at least once a year**  
 30 [REVIEW AN ORDER MADE UNDER (c)(1) OR (2) OF THIS SECTION  
 31 ANNUALLY, AND MAY REVIEW THE ORDER MORE FREQUENTLY] to

1 determine if continued placement or supervision, as it is being provided, is in the best  
 2 interest of the **child** [MINOR. IF ANNUAL REVIEW UNDER THIS SUBSECTION  
 3 WOULD ARISE WITHIN 90 DAYS OF THE HEARING REQUIRED UNDER (1) OF  
 4 THIS SECTION, THE COURT MAY POSTPONE REVIEW UNDER THIS  
 5 SUBSECTION UNTIL THE TIME SET FOR THE HEARING]. The department, the  
 6 **child, and** [MINOR,] the **child's** [MINOR'S] parents, guardian, **and guardian ad litem**  
 7 [OR CUSTODIAN] are entitled, when good cause is shown, to a **permanency hearing**  
 8 [REVIEW] on application. If the application is granted, the court shall afford these  
 9 **persons** [PARTIES] and their counsel reasonable **advance** notice [IN ADVANCE OF  
 10 THE REVIEW] and hold a **permanency** hearing where these **persons** [PARTIES] and  
 11 their counsel shall be afforded an opportunity to be heard. **The persons entitled to**  
 12 **notice under AS 47.10.030(b) are entitled to notice of a permanency hearing under**  
 13 **this subsection and are also entitled to be heard at the hearing.** The **child**  
 14 [MINOR] shall be afforded the opportunity to be present **and to be heard** at the  
 15 **hearing. After the hearing, the court shall make the written findings that are**  
 16 **required under (1) of this section** [REVIEW].

17 \* **Sec. 40.** AS 47.10.080(i) is amended to read:

18 (i) A **child or** [MINOR,] the **child's** [MINOR'S] parents, [OR] guardian, **or**  
 19 **guardian ad litem, or attorney,** acting on the **child's** [MINOR'S] behalf, or the  
 20 department may appeal a judgment or order, or the stay, modification, setting aside,  
 21 revocation, or enlargement of a judgment or order issued by the court under this  
 22 chapter. **Absent extraordinary circumstances, a decision on the appeal shall be**  
 23 **issued no later than 90 days after the latest of the following:**

24 **(1) the date oral argument, if any, is heard on the appeal; or**

25 **(2) 45 days after the last date oral argument could have been timely**  
 26 **requested if oral argument was not requested.**

27 \* **Sec. 41.** AS 47.10.080(l) is amended to read:

28 (l) Within **12** [18] months after the date **the child enters foster care as**  
 29 **calculated under AS 47.10.088(f)** [A CHILD IS INITIALLY REMOVED FROM THE  
 30 CHILD'S HOME BY THE DEPARTMENT UNDER AS 47.10.142(c) OR  
 31 COMMITTED TO THE CUSTODY OF THE DEPARTMENT UNDER [(c)(1) or (3)]

1 OF THIS SECTION OR AS 47.14.100(c)], the court shall hold a **permanency** hearing  
 2 to review the placement and services provided and to determine the future status of the  
 3 **child. The persons entitled to be heard at the hearing under AS 47.10.070 or**  
 4 **under (f) of this section are also entitled to be heard at the hearing under this**  
 5 **subsection** [MINOR]. The court shall make appropriate written findings, including  
 6 findings related to the following:

7 (1) **whether the parent or guardian has made substantial progress**  
 8 **to remedy the parent's or guardian's conduct or conditions in the home that made**  
 9 **the child a child in need of aid under this chapter;**

10 (2) whether the child should be returned to the parent **or guardian;**

11 (3) [(2)] whether the child should remain in out-of-home care for a  
 12 specified period **and whether the child's existing out-of-home placement continues**  
 13 **to be appropriate and in the best interests of the child;**

14 (4) [(3)] whether the child should remain in out-of-home care on a  
 15 permanent or long-term basis because of special needs or circumstances;

16 (5) [(4)] whether the child should be placed for adoption or legal  
 17 guardianship **and whether a petition for termination of parental rights should be**  
 18 **filed by the department;**

19 (6) **whether the department has made the reasonable efforts**  
 20 **required under AS 47.10.086 to offer appropriate family support services to**  
 21 **remedy the parent's or guardian's conduct or conditions in the home that made**  
 22 **the child a child in need of aid under this chapter; and**

23 (7) **whether, in the case of a child who is 16 years of age or older,**  
 24 **the department should provide services to assist the child in becoming able to live**  
 25 **independently.**

26 \* **Sec. 42.** AS 47.10.080(o) is amended to read:

27 (o) For purposes of terminating a parent's parental rights under the standards  
 28 in (c)(3) of this section, the court may determine that incarceration of the parent is  
 29 sufficient grounds for determining that a **child** [MINOR] is a child in need of aid under  
 30 **AS 47.10.011** [AS 47.10.010(a)(1)] as a result of parental conduct and that the **parental**  
 31 **rights of the incarcerated parent should be terminated** [CONDUCT IS LIKELY TO

1 CONTINUE] if the court finds, based on clear and convincing evidence, that [THE]

2 (1) **the** period of incarceration that the parent is scheduled to serve  
3 during the child's minority is significant considering the child's age and the child's need  
4 for an adult's care and supervision; [AND]

5 (2) **there is not another parent willing and able to care for the child;**  
6 **and**

7 (3) **the incarcerated** parent has failed to make adequate provisions for  
8 care of the child during the period of incarceration that will be during the child's  
9 minority.

10 \* **Sec. 43.** AS 47.10.080 is amended by adding new subsections to read:

11 (p) If the court orders a child committed to the department under (c) of this  
12 section for out-of-home placement, the department shall offer to arrange for the child's  
13 parents and extended family to have visitation with the child at least once a week,  
14 beginning within 72 hours after the order is issued, unless the department determines,  
15 based on clear and convincing evidence, that visitation, even if supervised, may be  
16 harmful to the child. When the department arranges visitation under this subsection,  
17 the visitation may be supervised or unsupervised, at the discretion of the department.  
18 The court may order the department to file a visitation schedule with the court within  
19 10 working days after the court issued the commitment order. The department may  
20 terminate visitation arranged under this subsection if the department determines, based  
21 on clear and convincing evidence, that visitation has resulted in physical harm or  
22 mental injury to the child. In making its determinations under this subsection, the  
23 department's paramount concern shall be the health and safety of the child. A person  
24 who is denied visitation under this subsection may appeal the denial.

25 (q) If the court orders a child committed to the department under (c) of this  
26 section for placement in licensed foster care, the court shall order the department to  
27 provide the foster parent with a copy of

28 (1) all initial, updated, and revised case service plans for the child, court  
29 orders relating to the child, and the child's medical, mental, and education reports  
30 prepared by or for the department, including reports compiled before the child was  
31 placed with the foster parent; and

1 (2) supplements to the plans, orders, and reports described in (1) of this  
2 subsection.

3 (r) If the court orders a child committed to the department under (c) of this  
4 section for placement in licensed foster care or for placement with a relative of the  
5 child, the court shall order the child's parent, guardian, or custodian to provide the  
6 department with

7 (1) the names, addresses, and telephone numbers of all of the child's  
8 medical providers; and

9 (2) a signed release for each medical provider identified in (1) of this  
10 subsection authorizing the provider to disclose the child's medical records to the  
11 department.

12 (s) Notwithstanding AS 47.14.100 and (c)(1) and (3) of this section, the  
13 department may not, without a court order, change the placement of a child who has  
14 been committed to the department under (c) of this section and placed with a relative  
15 or a foster home unless

16 (1) removal of the child is requested by the relative, the foster home,  
17 the child, or the child's guardian ad litem or attorney;

18 (2) a report of suspected child abuse or neglect concerning the relative  
19 or foster home is received by the department; or

20 (3) the child is removed in order to return the child to the parent or  
21 guardian or to place the child for adoption and removal under this paragraph is not  
22 opposed by the relative, the foster parent, the child, or the child's guardian ad litem or  
23 attorney.

24 (t) The department shall give at least 14 days' written notice by certified mail,  
25 return receipt requested, of an intent to request a court order to allow a change in the  
26 placement of a child whose change of placement is not governed by (s) of this section.  
27 The notice shall be sent to the court, the affected foster parent or relative with whom  
28 the child is currently placed, the child, and the child's parent or guardian, guardian ad  
29 litem, and attorney. A person to whom notice is sent under this subsection may file an  
30 objection to the proposed change of placement if the objection is postmarked or  
31 received by the court within 15 days after the person received the notice, and the

1 department's notice must include notification of that right to object. If an objection is  
 2 filed, the department may not implement the intended change of placement, pending a  
 3 court decision on the matter. A person who has filed an objection under this subsection  
 4 may be represented by an attorney or other representative designated by the person.

5 \* **Sec. 44.** AS 47.10.082 is amended to read:

6 **Sec. 47.10.082. Best interests of child and other considerations.** In making  
 7 its dispositional order under AS 47.10.080(c), the court shall [CONSIDER]

8 (1) **consider** the best interests of the child; [AND]

9 (2) **consider** the ability of the state to take custody and to care for the  
 10 child to protect the child's best interests under **AS 47.10.005 - 47.10.142; and**

11 **(3) keep the health and safety of the child as the court's paramount**  
 12 **concern** [AS 47.10.010 - 47.10.142].

13 \* **Sec. 45.** AS 47.10.084(a) is amended to read:

14 (a) When a child is committed under AS 47.10.080(c)(1) to the department,  
 15 released under AS 47.10.080(c)(2) to the child's parents, guardian, or other suitable  
 16 person, or committed to the department or to a legally appointed guardian of the person  
 17 of the child under AS 47.10.080(c)(3), a relationship of legal custody exists. This  
 18 relationship imposes on the department and its authorized agents or the parents,  
 19 guardian, or other suitable person the responsibility of physical care and control of the  
 20 child, the determination of where and with whom the child shall live, the right and duty  
 21 to protect, **nurture**, train, and discipline the child, [AND] the duty of providing the  
 22 child with food, shelter, education, and medical care, **and the right and responsibility**  
 23 **to obtain legal representation for, and make decisions of legal or financial**  
 24 **significance concerning, the child**. These obligations are subject to any residual  
 25 parental rights and responsibilities and rights and responsibilities of a guardian if one  
 26 has been appointed. When a child is committed to the department and the department  
 27 places the child with the child's parent, the parent has the responsibility to provide and  
 28 pay for food, shelter, education, and medical care for the child. When parental rights  
 29 have been terminated, or there are no living parents and no guardian has been  
 30 appointed, the responsibilities of legal custody include those in (b) and (c) of this  
 31 section. The department or person having legal custody of the child may delegate any

1 of the responsibilities under this section, except authority to consent to marriage,  
2 adoption, and military enlistment may not be delegated. For purposes of this chapter  
3 a person in charge of a placement setting is an agent of the department.

4 \* **Sec. 46.** AS 47.10 is amended by adding new sections to read:

5 **Sec. 47.10.086. Reasonable efforts.** (a) Except as provided in (b) and (c) of  
6 this section, the department shall make timely, reasonable efforts to provide family  
7 support services to the child and to the parents or guardian of the child that are  
8 designed to prevent out-of-home placement of the child or to enable the safe return of  
9 the child to the family home, when appropriate, if the child is in an out-of-home  
10 placement. The department's duty to make reasonable efforts under this subsection  
11 includes the duty to

12 (1) identify available departmental and community services that are  
13 designed to sustain and enhance the capacity of a parent or guardian to care for the  
14 child at a level of adequacy that will allow the child either to remain in the home or  
15 to be returned to the home; the department shall place a high priority on determining  
16 whether appropriate community services are available;

17 (2) actively offer and attempt to provide or to refer the parents to the  
18 services identified under (1) of this subsection; the department shall place a high  
19 priority on referring the parents to services that are community services;

20 (3) document the department's actions that are taken under (1) and (2)  
21 of this subsection.

22 (b) If the court makes a finding at a hearing conducted under AS 47.10.080(1)  
23 that a parent or guardian has not sufficiently remedied the parent's or guardian's  
24 conduct or the conditions in the home despite reasonable efforts made by the  
25 department in accordance with this section, the court may conclude that continuation  
26 of reasonable efforts of the type described in (a) of this section are not in the best  
27 interests of the child. The department shall then make reasonable efforts to place the  
28 child in a timely manner in accordance with the permanent plan and to complete  
29 whatever steps are necessary to finalize the permanent placement of the child.

30 (c) The court may determine that reasonable efforts of the type described in (a)  
31 of this section are not required if the court has found by a preponderance of the

1 evidence that

2 (1) the parent or guardian has subjected the child to circumstances that  
3 pose a substantial risk to the child's health or safety; these circumstances include  
4 abandonment, sexual abuse, torture, chronic mental injury, or chronic physical harm;

5 (2) the parent or guardian has

6 (A) committed homicide under AS 11.41.100 - 11.41.130 of a  
7 child;

8 (B) aided or abetted, attempted, conspired, or solicited under  
9 AS 11.16 or AS 11.31 to commit a homicide described in (A) of this paragraph;

10 (C) committed an assault that is a felony under AS 11.41.200 -  
11 11.41.220 and results in serious physical injury to a child; or

12 (D) committed the conduct described in (A) - (C) of this  
13 paragraph that violated a law or ordinance of another jurisdiction having  
14 elements similar to an offense described in (A) - (C) of this paragraph;

15 (3) the parental rights of a parent to a sibling of the child have been  
16 terminated by the court;

17 (4) the department has conducted a reasonably diligent search over a  
18 time period of at least three months for an unidentified or absent parent and has failed  
19 to identify and locate the parent;

20 (5) the parent or guardian is the sole caregiver of the child and the  
21 parent or guardian has a mental illness or mental deficiency that, according to a written  
22 certification of a psychologist or physician, makes it more probable than not that, even  
23 with the provision of family support services for 12 months, the caregiver will be  
24 incapable of caring for the child without creating a risk of substantial physical harm to  
25 the child;

26 (6) the parent or guardian has previously been convicted of a crime  
27 involving a child in this state or in another jurisdiction and, after the conviction, the  
28 child was returned to the custody of the parent or guardian and later removed because  
29 of an additional substantiated report of physical or sexual abuse by the parent or  
30 guardian;

31 (7) a child has suffered substantial physical harm as the result of abusive

1 or neglectful conduct by the parent or guardian or by a person known by the parent or  
2 guardian and the parent or guardian knew or reasonably should have known that the  
3 person was abusing the child;

4 (8) the parental rights of the parent have been terminated with respect  
5 to another child because of child abuse or neglect, the parent has not remedied the  
6 conditions or conduct that led to the termination of parental rights, and the parent has  
7 demonstrated an inability to protect the child from substantial harm or the risk of  
8 substantial harm; or

9 (9) the child has been removed from the child's home on at least two  
10 previous occasions, family support services were offered or provided to the parent or  
11 guardian at those times, and the parent or guardian has demonstrated an inability to  
12 protect the child from substantial harm or the risk of substantial harm.

13 (d) If the court orders the department to make reasonable efforts to provide  
14 family support services, the court shall also order the parent or guardian of the child  
15 to make reasonable efforts to participate in the family support services that are offered  
16 by the department or referred to the parent or guardian by the department. If a parent  
17 or guardian fails to participate or to attempt to participate in the services for 12 months,  
18 the department may seek a court order extinguishing the department's responsibility to  
19 offer or refer family support services to the parent or guardian. The department must  
20 request the court for the new order within 90 day after the date that the parent or  
21 guardian failed to participate in family support services and must accompany the  
22 request with a petition for the termination of parental rights if the nonparticipating  
23 person was a parent and with a new plan for permanent placement of the child. The  
24 court shall grant the department's request under this subsection for an order  
25 extinguishing the department's responsibility to offer family support services to a parent  
26 or guardian if the court finds that it is no longer reasonable to require the department  
27 to offer family support services to the parent or guardian; failure of the parent or  
28 guardian to participate in family support services offered by the department for 12  
29 months constitutes prima facie evidence that it is no longer reasonable to require the  
30 department to offer family support services to the parent or guardian.

31 (e) If the court determines under (b) or (c) of this section that reasonable efforts

1 under (a) of this section are not required to be provided,

2 (1) the court shall hold a permanency hearing for the child within 30  
3 days after the determination; and

4 (2) the department shall make reasonable efforts to place the child in  
5 a timely manner in accordance with the permanency plan, and complete whatever steps  
6 are necessary to finalize the permanent placement of the child.

7 (f) The department may develop and implement an alternative permanency plan  
8 for the child while the department is also making reasonable efforts to return the child  
9 to the child's family under (a) of this section.

10 (g) In making determinations and reasonable efforts under this section, the  
11 primary consideration is the child's best interests.

12 **Sec. 47.10.088. Termination of parental rights and responsibilities.** (a)  
13 Except as provided in AS 47.10.080(o), the rights and responsibilities of the parent  
14 regarding the child may be terminated for purposes of freeing a child for adoption or  
15 other permanent placement if the court finds

16 (1) by clear and convincing evidence that

17 (A) the child is a child in need of aid as described in  
18 AS 47.10.011; and

19 (B) the parent

20 (i) has not remedied the conduct or conditions in the  
21 home that place the child at substantial risk of harm; or

22 (ii) has failed, within a reasonable time, to remedy the  
23 conduct or conditions in the home that place the child in substantial risk  
24 so that returning the child to the parent would place the child at  
25 substantial risk of significant physical harm or sexual abuse; and

26 (2) by preponderance of the evidence that the department has complied  
27 with the provisions of AS 47.10.086 concerning reasonable efforts.

28 (b) In making a determination under (a)(1)(B) of this section, the court may  
29 consider any fact relating to the best interests of the child, including

30 (1) the likelihood of returning the child to the parent within a reasonable  
31 time based on the child's age or needs;

1                   (2) the amount of effort by the parent to remedy the conduct or the  
2 conditions in the home;

3                   (3) the harm caused to the child;

4                   (4) the likelihood that the harmful conduct will continue; and

5                   (5) the history of conduct by or conditions created by the parent.

6                   (c) In a proceeding under this chapter involving termination of the parental  
7 right of a parent, the court shall consider the best interests of the child.

8                   (d) Except as provided in (e) of this section, the department shall petition for  
9 termination of a parent's rights to a child, without making further reasonable efforts,  
10 when a child is under the jurisdiction of the court under AS 47.10.010 and 47.10.011,  
11 and

12                   (1) the child has been in foster care for at least 15 of the most recent  
13 22 months;

14                   (2) the court has determined that the child is abandoned under  
15 AS 47.10.013 and the child is younger than six years of age;

16                   (3) the court has made a finding under AS 47.10.086(b) or a  
17 determination under AS 47.10.086(c) that the best interests of the child do not require  
18 further reasonable efforts by the department;

19                   (4) a parent has made three or more attempts within a 15-month period  
20 to remedy the parent's conduct or conditions in the home without lasting change; or

21                   (5) a parent has made no effort to remedy the parent's conduct or the  
22 conditions in the home by the time of the permanency hearing under AS 47.10.080(1).

23                   (e) If one or more of the conditions listed in (d) of this section are present, the  
24 department shall petition for termination of the parental rights to a child unless the  
25 department

26                   (1) has documented a compelling reason for determining that filing the  
27 petition would not be in the best interests of the child; a compelling reason under this  
28 paragraph may include care by a relative for the child; or

29                   (2) is required to take reasonable efforts under AS 47.10.086 and the  
30 department has not provided to the parent, consistent with the time period in the  
31 department's case plan, the family support services that the department has determined

1 are necessary for the safe return of the child to the home.

2 (f) A child is considered to have entered foster care under this chapter on the  
3 earlier of

4 (1) the date of the first judicial finding of child abuse or neglect; or

5 (2) 60 days after the date of removal of the child from the child's home  
6 under this chapter.

7 (g) This section does not preclude the department from filing a petition to  
8 terminate the parental rights and responsibilities to a child for other reasons, or at an  
9 earlier time than those specified in (d) of this section, if the department determines that  
10 filing a petition is in the best interests of the child.

11 (h) The court may order the termination of parental rights and responsibilities  
12 of one or both parents under AS 47.10.080(c)(3) and commit the child to the custody  
13 of the department. The rights of one parent may be terminated without affecting the  
14 rights of the other parent.

15 (i) The department shall concurrently identify, recruit, process, and approve a  
16 qualified person or family for an adoption whenever a petition to terminate a parent's  
17 rights to a child is filed. If the court issues an order to terminate under (j) of this  
18 section, the department shall report within 30 days on the efforts being made to recruit  
19 a permanent placement for the child if a permanent placement was not approved at the  
20 time of the trial under (j) of this section. The report must document recruitment efforts  
21 made for the child.

22 (j) No later than six months after the date on which the petition to terminate  
23 parental rights is filed, the court before which the petition is pending shall hold a trial  
24 on the petition unless the court finds that good cause is shown for a continuance.  
25 When determining whether to grant a continuance for good cause, the court shall take  
26 into consideration the age of the child and the potential adverse effect that the delay  
27 may have on the child. The court shall make written findings when granting a  
28 continuance.

29 (k) The court shall issue an order on the petition to terminate within 90 days  
30 after the last day of the trial on the petition to terminate parental rights.

31 \* **Sec. 47.** AS 47.10.092(a) is amended to read:

1 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of  
 2 a child [MINOR] subject to a proceeding under AS 47.10.005 - 47.10.142  
 3 [AS 47.10.010 - 47.10.142] may disclose confidential or privileged information about  
 4 the child or the child's family [MINOR], including information that has been lawfully  
 5 obtained from agency or court files, to the governor, the lieutenant governor, a  
 6 legislator, the ombudsman appointed under AS 24.55, the attorney general, and the  
 7 commissioners of health and social services, administration, or public safety, or an  
 8 employee of these persons, for review or use in their official capacities. The  
 9 department shall [MAY] disclose additional confidential or privileged information and  
 10 make copies of documents available for inspection [DOCUMENTS] about the child  
 11 or the child's family [MINOR] to these state officials or employees for review or use  
 12 in their official capacities upon request of the official or employee and submission  
 13 of satisfactory evidence that a parent or legal guardian of the child has requested  
 14 the state official's assistance in the case as part of the official's duties. A person  
 15 to whom disclosure is made under this section may not disclose confidential or  
 16 privileged information about the child or the child's family [MINOR] to a person not  
 17 authorized to receive it.

18 \* **Sec. 48.** AS 47.10.093(b) is amended to read:

19 (b) A state or municipal agency or employee shall [MAY] disclose  
 20 appropriate information regarding a case to

21 (1) a guardian ad litem appointed by the court or to a citizen review  
 22 board or local review panel for permanency planning authorized by AS 47.14.200 or  
 23 47.14.220;

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

28 (3) foster parents or relatives with whom the child is placed by the  
 29 department as may be necessary to enable the foster parents or relatives to  
 30 provide appropriate care for the child who is the subject of the case, to protect the  
 31 safety of the child who is the subject of the case, and to protect the safety and

**property of family members and visitors of the foster parents or relatives;**

**(4)** school officials as may be necessary to enable the school to provide appropriate counseling and support services to the **child** [MINOR] who is the subject of the case, to protect the safety of the **child** [MINOR] who is the subject of the case, and to protect the safety of school students and staff;

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

**(6)** [AND (5)] a [STATE OR MUNICIPAL] law enforcement agency **of this state or another jurisdiction** as may be necessary for **the protection of any child** [A SPECIFIC INVESTIGATION BEING CONDUCTED BY THAT AGENCY] or for **actions** [DISCLOSURES] by that agency to protect the public safety;

**(7)** **members of a multidisciplinary child protection team created under AS 47.14.300** as may be necessary for the performance of their duties;

**(8)** **the state medical examiner under AS 12.65** as may be necessary for the performance of the duties of the state medical examiner;

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

**(10)** **the child support enforcement agency established in AS 25.27.010** as may be necessary to establish and collect child support for a child who is a child in need of aid under this chapter.

\* Sec. 49. AS 47.10.141(f) is amended to read:

(f) If a **child** [MINOR], without permission, leaves the semi-secure portion of an office, program, shelter, or facility to which the **child** [MINOR] was taken by a peace officer under **(b)(1)(C)** [(b)(1)(c)] of this section, the office, program, shelter, or facility shall immediately notify the department and the nearest law enforcement agency of the identity of the **child** [MINOR] and the **child's** [MINOR'S] absence. If the same **child** [MINOR] is again taken into protective custody under (b) of this section and the peace officer knows that the **child** [MINOR] has previously been reported under this subsection as missing from a semi-secure placement, the peace officer, in addition to

1 taking the appropriate action under (b) of this section, shall report the circumstances  
 2 and the identity of the **child** [MINOR] to the department. Within 48 hours after  
 3 receiving this report, the department shall determine whether to file a petition alleging  
 4 that the **child** [MINOR] is a child in need of aid under **AS 47.10.011**  
 5 [AS 47.10.010(a)(1)]. If the department decides not to file a petition alleging that the  
 6 **child** [MINOR] is a child in need of aid, the department shall, within seven state  
 7 working days after receiving the report from the peace officer under this subsection,  
 8 send to the **child's** [MINOR'S] parents or guardian, as applicable, written notice of its  
 9 determination not to proceed with the petition, including the reasons on which the  
 10 determination was based. If the department is unable to obtain a reasonably reliable  
 11 address for a parent or guardian, the department shall keep a copy of the notice on file  
 12 and, notwithstanding AS 47.10.093, release the notice to the **child's** [MINOR'S] parent  
 13 or guardian on request of the parent or guardian. If the department files a petition  
 14 alleging that the **child** [MINOR] is a child in need of aid, the court shall proceed under  
 15 AS 47.10.142(d).

16 \* **Sec. 50.** AS 47.10.141(g) is amended to read:

17 (g) If the department files a petition alleging the minor is a child in need of aid  
 18 under **AS 47.10.011** [AS 47.10.010(a)(1)] because the minor is habitually absent from  
 19 home or refuses available care, the minor's parent or guardian shall attend each hearing  
 20 held during the child-in-need-of-aid proceedings unless the court excuses the parent or  
 21 guardian from attendance for good cause. If the minor is found to be a child in need  
 22 of aid, the court may order that the minor's parent or guardian

23 (1) personally participate in treatment reasonably available in the parent  
 24 or guardian's community as specified in a plan set out in the court order; and

25 (2) comply with other conditions set out in the court order.

26 \* **Sec. 51.** AS 47.10.142(a) is amended to read:

27 (a) The Department of Health and Social Services may take emergency custody  
 28 of a **child** [MINOR] upon discovering any of the following circumstances:

29 (1) the **child** [MINOR] has been abandoned **as abandonment is**  
 30 **described in AS 47.10.013;**

31 (2) the **child** [MINOR] has been [GROSSLY] neglected by the **child's**

1 [MINOR'S] parents or guardian, as "neglect" is **described** [DEFINED] in **AS 47.10.014**  
 2 [AS 47.17.290], and the department determines that immediate removal from the **child's**  
 3 [MINOR'S] surroundings is necessary to protect the **child's** [MINOR'S] life or provide  
 4 immediate necessary medical attention;

5 (3) the **child** [MINOR] has been subjected to **physical harm** [CHILD  
 6 ABUSE OR NEGLECT] by a person responsible for the **child's** [MINOR'S] welfare,  
 7 [AS "CHILD ABUSE OR NEGLECT" IS DEFINED IN AS 47.17.290,] and the  
 8 department determines that immediate removal from the **child's** [MINOR'S]  
 9 surroundings is necessary to protect the **child's** [MINOR'S] life or that immediate  
 10 medical attention is necessary; or

11 (4) the **child or a sibling** [MINOR] has been sexually abused under  
 12 circumstances listed in **AS 47.10.011(7)** [AS 47.10.010(a)(4)].

13 \* **Sec. 52.** AS 47.10.142(c) is amended to read:

14 (c) When a child is taken into custody under (a) or (b) of this section or when  
 15 the department is notified of a child's presence in either a program for runaway  
 16 **children** [MINORS] under AS 47.10.300 - 47.10.390 or a shelter for runaway **children**  
 17 [MINORS] under AS 47.10.392 - 47.10.399, the department shall immediately, and in  
 18 no event more than **24** [12] hours later unless prevented by lack of communication  
 19 facilities, notify the parents or the person or persons having custody of the child. If the  
 20 department determines that continued custody is necessary to protect the child, the  
 21 department shall notify the court of the emergency custody by filing, within **24** [12]  
 22 hours after custody was assumed, a petition alleging that the child is a child in need of  
 23 aid. If the department releases the child within **24** [12] hours after taking the child into  
 24 custody and does not file a child in need of aid petition, the department shall, within  
 25 **24** [12] hours after releasing the child, file with the court a report explaining why the  
 26 child was taken into custody, **why the child was released, and to whom the child was**  
 27 **released.**

28 \* **Sec. 53.** AS 47.10.142(h) is amended to read:

29 (h) Within **12** [18] months after a minor is committed to the department under  
 30 this section, the court shall review the placement plan and actual placement of the  
 31 minor under AS 47.10.080(l).

1 \* **Sec. 54.** AS 47.10 is amended by adding a new section to read:

2 **Sec. 47.10.960. Duty and standard of care not created.** Nothing in this title  
3 creates a duty or standard of care for services to children and their families being  
4 served under AS 47.10.

5 \* **Sec. 55.** AS 47.10.990(1) is amended to read:

6 (1) "care" [OR "CARING" UNDER AS 47.10.010(a)(1) AND  
7 47.10.120(a)] means to provide for the physical, [EMOTIONAL,] mental, and social  
8 needs of the child;

9 \* **Sec. 56.** AS 47.10.990(2) is amended to read:

10 (2) "child in need of aid" means a **child** [MINOR] found to be within the  
11 jurisdiction of the court under **AS 47.10.010 and 47.10.011** [AS 47.10.010(a)];

12 \* **Sec. 57.** AS 47.10.990 is amended by adding new paragraphs to read:

13 (8) "child" means a person under 18 years of age and a person 19 years  
14 of age if that person was under 18 years of age at the time that a proceeding under this  
15 chapter was commenced;

16 (9) "custodian" means a natural person 18 years of age or older to  
17 whom a parent or guardian has transferred temporary physical care, custody, and  
18 control of the child for a period of time;

19 (10) "domestic violence" has the meaning given in AS 18.66.990;

20 (11) "family support services" means the services and activities provided  
21 to children and their families, including those provided by the community, a church,  
22 or other service organization, both to prevent removal of a child from the parental home  
23 and to facilitate the child's safe return to the family; "family support services" may  
24 include counseling, substance abuse treatment, mental health services, assistance to  
25 address domestic violence, visitation with family members, parenting classes, in-home  
26 services, temporary child care services, and transportation;

27 (12) "foster care" means care provided by a person or household under  
28 a foster home license required under AS 47.35.015;

29 (13) "guardian" means a natural person who is legally appointed  
30 guardian of the child by the court;

31 (14) "intoxicant" means a substance that temporarily diminishes a

1 person's control over mental or physical powers, including alcohol, controlled  
2 substances under AS 11.71, and inhalants;

3 (15) "mental injury" has the meaning given in AS 47.17.290;

4 (16) "parent" means the biological or adoptive parent of the child;

5 (17) "permanency hearing" means a hearing

6 (A) designed to reach a decision in a case concerning the  
7 permanent placement of a child under AS 47.10; and

8 (B) at which the direction of the case involving the child is  
9 determined;

10 (18) "reasonable efforts" means, with respect to family support services  
11 required under AS 47.10.086, consistent attempts during a reasonable time period and  
12 time-limited services;

13 (19) "reasonable time" means a period of time that serves the best  
14 interests of the child, taking in account the affected child's age, emotional and  
15 developmental needs, and ability to form and maintain lasting attachments;

16 (20) "serious physical injury" has the meaning given in  
17 AS 11.81.900(b);

18 (21) "sexual abuse" means the conduct described in AS 11.41.410 -  
19 11.41.460; conduct constituting "sexual exploitation" as defined in AS 47.17.290, and  
20 conduct prohibited by AS 11.66.100 - 11.66.150;

21 (22) "support" has the meaning given in AS 11.51.120(b).

22 \* **Sec. 58.** AS 47.12.310(b) is amended to read:

23 (b) A state or municipal agency or employee **shall** [MAY] disclose  
24 **appropriate** information regarding a case to

25 (1) a guardian ad litem appointed by the court or to a citizen review  
26 board or local review panel for permanency planning authorized by AS 47.14.200 -  
27 47.14.220;

28 (2) a person or an agency requested **by the department or the minor's**  
29 **legal custodian** to provide consultation or services for a minor who is subject to the  
30 jurisdiction of the court under this chapter **as necessary to enable the provision of the**  
31 **consultation or services**;

1 (3) school officials as may be necessary to protect the safety of the  
 2 minor who is the subject of the case and the safety of school students and staff or to  
 3 enable the school to provide appropriate counseling and supportive services to meet the  
 4 needs of a minor about whom information is disclosed;

5 (4) a governmental agency as may be necessary to obtain that agency's  
 6 assistance for the department in its investigation or to obtain physical custody of a  
 7 minor;

8 (5) a [STATE OR MUNICIPAL] law enforcement agency **of this state**  
 9 **or another jurisdiction** as may be necessary for **the protection, rehabilitation, or**  
 10 **supervision of any minor** [A SPECIFIC INVESTIGATION BEING CONDUCTED  
 11 BY THAT AGENCY] or for **actions** [DISCLOSURES] by that agency to protect the  
 12 public safety; [AND]

13 (6) a victim as may be necessary to inform the victim about the  
 14 disposition or resolution of a case involving a minor;

15 **(7) the state medical examiner under AS 12.65 as may be necessary**  
 16 **to perform the duties of the state medical examiner; and**

17 **(8) foster parents or relatives with whom the child is placed by the**  
 18 **department as may be necessary to enable the foster parents or relatives to**  
 19 **provide appropriate care for the child who is the subject of the case, to protect the**  
 20 **safety of the child who is the subject of the case, and to protect the safety and**  
 21 **property of family members and visitors of the foster parents or relatives.**

22 \* **Sec. 59.** AS 47.14.100(a) is amended to read:

23 (a) Subject to **(e), (f), and (i)** [(e) AND (f)] of this section, the department shall  
 24 arrange for the care of every child committed to its custody by placing the child in a  
 25 foster home or in the care of an agency or institution providing care for children inside  
 26 or outside the state. The department may place a child in a suitable family home, with  
 27 or without compensation, and may place a child released to it, in writing verified by  
 28 the parent, or guardian or other person having legal custody, for adoptive purposes, in  
 29 a home for adoption in accordance with existing law.

30 \* **Sec. 60.** AS 47.14.100(d) is amended to read:

31 (d) In addition to money paid for the maintenance of foster children under (b)

1 of this section, the department

2 (1) shall pay the costs of caring for physically or mentally handicapped  
3 foster children, including the additional costs of medical care, habilitative and  
4 rehabilitative treatment, services and equipment, special clothing, and the indirect costs  
5 of medical care, including child care and transportation expenses;

6 (2) may pay for respite care; in this paragraph, "respite care" means  
7 child care for the purpose of providing

8 [(A)] temporary relief from the stresses of caring for a foster  
9 child [WHO HAS A PHYSICAL OR MENTAL DISABILITY OR A  
10 PHYSICAL OR MENTAL IMPAIRMENT; IN THIS SUBPARAGRAPH,

11 (i) "PHYSICAL OR MENTAL DISABILITY" HAS THE  
12 MEANING GIVEN IN AS 18.80.300(12)(A), (B), AND (D); AND

13 (ii) "PHYSICAL OR MENTAL IMPAIRMENT" HAS  
14 THE MEANING GIVEN IN AS 18.80.300; AND

15 (B) PROTECTION FOR THE CHILD WHEN THE FOSTER  
16 PARENT IS

17 (i) AWAY FROM THE HOME BECAUSE OF AN  
18 EMERGENCY AND OTHER CARE IS NOT AVAILABLE FOR THE  
19 CHILD; OR

20 (ii) ON VACATION AND THE CHILD, BECAUSE OF  
21 AGE OR INFIRMITY, CANNOT BE PLACED IN ANY OTHER TYPE  
22 OF TEMPORARY CARE FACILITY]; and

23 (3) may pay a subsidized guardianship payment under AS 25.23.210  
24 when a foster child's foster parents or other persons approved by the department  
25 become court-appointed legal guardians of the child.

26 \* **Sec. 61.** AS 47.14.100(e) is amended to read:

27 (e) A child may not be placed in a foster home or in the care of an agency or  
28 institution providing care for children if a [BLOOD] relative **by blood or marriage**  
29 [EXISTS WHO] requests custody of the child **and is not disqualified under this**  
30 **subsection. The** [. HOWEVER, THE] department may retain custody of the child and  
31 provide for its placement in the same manner as for other children if **each relative who**

1 **has requested custody is disqualified because the department**

2 (1) [IT] makes a determination, supported by clear and convincing  
3 evidence **obtained from a home study or other source**, that the custody of the child  
4 by the [BLOOD] relative will result in physical or emotional damage; **in** [. IN] making  
5 that determination, poverty, including inadequate or crowded housing, on the part of the  
6 blood relative, is not considered prima facie evidence that physical or emotional  
7 damage to the child will occur; **this** [. THIS] determination may be appealed to the  
8 superior court to hear the matter de novo; **or**

9 (2) **determines that there is a member of the relative's household**  
10 **who is 16 years of age or older who has a criminal record or was the perpetrator**  
11 **in a substantiated report of abuse under AS 47.17; a relative who requests custody**  
12 **of the child shall submit to the department two sets of fingerprints and the social**  
13 **security number of each person in the household who is 16 years of age or older;**  
14 **the department shall submit the information to the Department of Public Safety**  
15 **to conduct a state and national criminal background check from criminal justice**  
16 **information received under AS 12.62 and regulations adopted under AS 12.62; the**  
17 **department may not place the child with a relative until the results of the**  
18 **background check are received by the department.**

19 \* Sec. 62. AS 47.14.100 is amended by adding a new subsection to read:

20 (i) A child may not be placed with an out-of-home care provider, as defined  
21 in AS 47.14.299, if the department determines that the child can remain safely at home  
22 with one parent, conditioned on the other parent or caretaker being out of the home.  
23 If the department determines that the child can remain safely at home, conditioned on  
24 the other parent or caretaker being out of the home, the department shall apply for an  
25 appropriate protective order from the court. The court shall issue a protective order  
26 enjoining a parent, caretaker, or other person from residing in the home with the child  
27 if the department establishes, by a preponderance of the evidence, that the continued  
28 presence of the person in the home presents a substantial risk of harm to the child and  
29 that it is in the child's best interest that the order be issued. If the court does not issue  
30 the protective order, the department shall place the child outside the home.

31 \* Sec. 63. AS 47.14.240(d) is amended to read:

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

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

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

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

11 (4) the child's guardian;

12 (5) the child's guardian ad litem;

13 (6) the case worker or social worker assigned to the case;

14 (7) **the child's health care providers;**

15 (8) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child  
 16 Welfare Act),

17 (A) the child's Indian custodian; and

18 (B) the designated representative of the child's Indian tribe if the  
 19 tribe has intervened in the court case; and

20 (9) [(8)] other persons with a close personal knowledge of the case.

21 \* **Sec. 64.** AS 47.14.240(h) is amended to read:

22 (h) The report required under (g) of this section must make advisory  
 23 recommendations based on the best interests of the child in accordance with  
 24 AS 47.10.082 and must include notification of the right to request court review under  
 25 AS 47.10.080(f). If the court has scheduled the case for review, the local review panel  
 26 shall submit its report at least 20 days before the hearing, **and the department shall**  
 27 **present to the court the recommendations that are made in the report.**

28 \* **Sec. 65.** AS 47.14 is amended by adding a new section to read:

29 **Article 3A. Multidisciplinary Child Protection Teams.**

30 **Sec. 47.14.300. Multidisciplinary child protection teams.** (a) The  
 31 department shall create multidisciplinary child protection teams to assist in the

1 evaluation and investigation of reports made under AS 47.17 and to provide  
2 consultation and coordination for agencies involved in child protection cases under  
3 AS 47.10.

4 (b) If a team is created under (a) of this section, the team may invite other  
5 persons to serve on the team who have knowledge of and experience in child abuse and  
6 neglect matters. These persons may include

- 7 (1) mental and physical health practitioners licensed under AS 08;
- 8 (2) child development specialists;
- 9 (3) educators;
- 10 (4) peace officers as defined in AS 11.81.900;
- 11 (5) victim counselors as defined in AS 18.66.250;
- 12 (6) experts in the assessment and treatment of substance abuse;
- 13 (7) representatives of the district attorney's office and the attorney  
14 general's office;
- 15 (8) persons familiar with 25 U.S.C. 1901 - 1963 (Indian Child Welfare  
16 Act);
- 17 (9) guardians ad litem; and
- 18 (10) staff members of a child advocacy center if a center is located in  
19 the relevant area.

20 (c) A team created under (a) and (b) of this section shall review records on a  
21 case referred to the team by the department. The department shall make available to  
22 the team its records on the case and other records compiled for planning on the case  
23 by other agencies at the request of the department. The team may make  
24 recommendations to the department on appropriate planning for the case.

25 (d) Except for a public report issued by a team that does not contain  
26 confidential information, records or other information collected by the team or a  
27 member of the team related to duties under this section are confidential and not subject  
28 to public disclosure under AS 09.25.100 and 09.25.110.

29 (e) Meetings of a team are closed to the public and are not subject to the  
30 provisions of AS 44.62.310 and 44.62.312.

31 (f) The determinations, conclusions, and recommendations of a team or its

1 members are not admissible in a civil or criminal proceeding. A member may not be  
 2 compelled to disclose a determination, conclusion, recommendation, discussion, or  
 3 thought process through discovery or testimony in a civil or criminal proceeding.  
 4 Records and information collected by the team are not subject to discovery or subpoena  
 5 in connection with a civil or criminal proceeding.

6 (g) Notwithstanding (f) of this section, an employee of the department may  
 7 testify in a civil or criminal proceeding concerning cases reviewed by a team even  
 8 though the department's records were reviewed by a team and formed the basis of that  
 9 employee's testimony and the team's report.

10 (h) A person who serves on a multidisciplinary child protection team is not  
 11 liable for damage or other relief in an action brought by the reason of the performance  
 12 of a duty, a function, or an activity of the team.

13 (i) In this section, "team" means a multidisciplinary child protection team  
 14 created under (a) and (b) of this section.

15 \* **Sec. 66.** AS 47.14.990(2) is amended to read:

16 (2) "child in need of aid" means a **child** [MINOR] found to be within  
 17 the jurisdiction of the court under **AS 47.10.010 and 47.10.011** [AS 47.10.010(a)];

18 \* **Sec. 67.** AS 47.17.020(a) is amended to read:

19 (a) The following persons who, in the performance of their occupational duties,  
 20 **or with respect to (9) of this subsection, in the performance of their appointed**  
 21 **duties**, have reasonable cause to suspect that a child has suffered harm as a result of  
 22 child abuse or neglect shall immediately report the harm to the nearest office of the  
 23 department:

24 (1) practitioners of the healing arts;

25 (2) school teachers and school administrative staff members of public  
 26 and private schools;

27 (3) social workers;

28 (4) peace officers [,] and officers of the Department of Corrections;

29 (5) administrative officers of institutions;

30 (6) child care providers;

31 (7) paid employees of domestic violence and sexual assault programs,

1 and crisis intervention and prevention programs as defined in AS 18.66.990;

2 (8) paid employees of an organization that provides counseling or  
3 treatment to individuals seeking to control their use of drugs or alcohol;

4 (9) members of a child fatality review team established under  
5 AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created  
6 under AS 47.14.300.

7 \* **Sec. 68.** AS 47.17.020 is amended by adding new subsections to read:

8 (h) This section does not require a person required to report child abuse or  
9 neglect under (a)(7) of this section to report mental injury to a child as a result of  
10 exposure to domestic violence so long as the person has reasonable cause to believe  
11 that the child is in safe and appropriate care and not presently in danger of mental  
12 injury as a result of exposure to domestic violence.

13 (i) This section does not require a person required to report child abuse or  
14 neglect under (a)(8) of this section to report the resumption of use of an intoxicant as  
15 described in AS 47.10.011(10) so long as the person does not have reasonable cause  
16 to suspect that a child has suffered harm as a result of the resumption.

17 \* **Sec. 69.** AS 47.17.030(d) is amended to read:

18 (d) Before the department or a local government health or social services  
19 agency may seek the termination of parental rights under **AS 47.10**  
20 [AS 47.10.080(c)(3)], it shall offer protective social services and pursue all other  
21 reasonable means of protecting the child.

22 \* **Sec. 70.** AS 47.17.030 is amended by adding a new subsection to read:

23 (g) Before removing a child from the home based on a report of harm, the  
24 department shall request the attorney general to seek a protective injunction under  
25 AS 47.17.069 if limiting a person's contact with the child would allow the child to  
26 remain safely at home with another caretaker.

27 \* **Sec. 71.** AS 47.17 is amended by adding a new section to read:

28 **Sec. 47.17.033. Investigations.** (a) In investigating child abuse and neglect  
29 reports under this chapter, the department may make necessary inquiries about the  
30 criminal records of the parents or of the alleged abusive or neglectful person, including  
31 inquiries about the existence of a criminal history record involving a serious offense as

1 defined in AS 12.62.900.

2 (b) For purposes of obtaining access to information needed to conduct the  
3 inquiries required by (a) of this section, the department is a criminal justice agency  
4 conducting a criminal justice activity.

5 \* **Sec. 72.** AS 47.17.035(b) is amended to read:

6 (b) If the department determines in an investigation of abuse or neglect of a  
7 child that

8 (1) the child is in danger because of domestic violence or that the child  
9 needs protection as a result of the presence of domestic violence in the family, the  
10 department shall take appropriate steps for the protection of the child; **in this**  
11 **paragraph, "appropriate steps" includes**

12 **(A) reasonable efforts to protect the child and prevent the**  
13 **removal of the child from the parent or guardian who is not a domestic**  
14 **violence offender;**

15 **(B) reasonable efforts to remove the alleged domestic violence**  
16 **offender from the child's residence if it is determined that the child or**  
17 **another family or household member is in danger of domestic violence; and**

18 **(C) services to help protect the child from being placed or**  
19 **having unsupervised visitation with the domestic violence offender until the**  
20 **department determines that the offender has met conditions considered**  
21 **necessary by the department to protect the safety of the domestic violence**  
22 **victim and household members;**

23 (2) a person is the victim of domestic violence, the department shall  
24 provide the victim with a written notice of the rights of and services available to  
25 victims of domestic violence that is substantially similar to the notice provided to  
26 victims of domestic violence under AS 18.65.520.

27 \* **Sec. 73.** AS 47.17.290(8) is amended to read:

28 (8) "maltreatment" means an act or omission that results in  
29 circumstances in which there is reasonable cause to suspect that a child may be a child  
30 in need of aid, as described in **AS 47.10.011** [AS 47.10.010(a)], except that, for  
31 purposes of this chapter, the act or omission need not have been committed by the

1 child's parent, custodian, or guardian;

2 \* **Sec. 74.** AS 47.35.017(b) is amended to read:

3 (b) An application submitted under this section must contain at least the  
4 following information:

5 (1) the name and address of the applicant [,] and, if the applicant is an  
6 agency, corporation, partnership, association, or any other form of organization, the  
7 name, address, and title of **each individual** [ALL INDIVIDUALS] who **has** [HAVE]  
8 an ownership or management interest in the facility; **if the applicant is an individual,**  
9 **the application must include the name, age, and driver's license number, if any,**  
10 **of each member of the individual's household;**

11 (2) the name, physical location, and mailing address of the facility or  
12 agency for which the license is sought;

13 (3) the name and address of the administrator of the facility or agency,  
14 if any;

15 (4) evidence that the administrator or foster parent is an adult with  
16 sufficient experience, training, or education to fulfill the duties of an administrator or  
17 foster parent;

18 (5) a release for the administrator or foster parent and for each other  
19 person **who is 16 years of age or older**, as specified by the department by regulation,  
20 who will have contact with individuals served by the facility or agency, authorizing the  
21 department to review all federal, state, and municipal **criminal justice information,**  
22 **whether of this state, of a municipality of this state, or of another jurisdiction**  
23 [LAW ENFORCEMENT], medical **records**, licensing **records**, and protective services  
24 records, identified in regulations adopted under this chapter, that are relevant to the  
25 person who is the subject of the release and to the type of license for which the  
26 application has been submitted;

27 (6) **two sets of fingerprints and the social security number of each**  
28 **person required to provide a release under (5) of this subsection in order for the**  
29 **department to submit the fingerprints to the Department of Public Safety for the**  
30 **purpose of conducting state and national criminal background checks from**  
31 **criminal justice information received under AS 12.62 and regulations adopted**

**under AS 12.62; the department may not approve an application under this section until the results of the criminal background check have been submitted to the department;**

(7) for a facility, the number of individuals that will be served in the facility;

(8) [(7)] the type of facility or agency for which the license is sought;

(9) [(8)] copies of all inspection reports and approvals required by state fire prevention and environmental health and safety authorities for operation of the facility or agency, including any variances granted by these authorities;

(10) [(9)] a plan of operation, as required by the department by regulation;

(11) [(10)] a staffing plan that describes the number of people who will work at the facility or agency, staff qualifications, a description of each person's responsibilities, and, for a facility other than a maternity home, a supervision schedule for the children in care that meets the requirements established by the department by regulation;

**(12) evidence that the applicant is capable of meeting the minimum standards of care established by the department under AS 47.14.120;**

(13) [(11)] evidence that the applicant has completed orientation or training required by the department, by regulation, for holders of the type of license for which the application was submitted; and

(14) [(12)] other information required by the department, by regulation, in order to monitor compliance with this chapter and regulations adopted under this chapter.

\* **Sec. 75.** AS 47.35 is amended by adding a new section to read:

**Sec. 47.35.022. Foster care placement.** (a) Except as provided in (b) of this section, the department may not place or continue placement of a child for care for payment under AS 47.10 in a foster home that is licensed under this chapter if the department finds that a person for whom fingerprints are required to be submitted for licensure of the foster home is currently under arrest for, charged with, or has been convicted of, or found not guilty by reason of insanity of, a serious offense.

1 (b) Notwithstanding (a) of this section, the department may place or continue  
2 a placement for foster care if the applicant or licensee demonstrates to the satisfaction  
3 of the department that the applicant, licensee, or other person committed the conduct  
4 described in (a) of this section at least five years before the placement, and the conduct

5 (1) did not involve a victim who was under 18 years of age at the time  
6 the conduct occurred;

7 (2) was not a crime of domestic violence as defined in AS 18.66.990;  
8 and

9 (3) was not a violent crime under AS 11.41.100 - 11.41.455 or a law  
10 or an ordinance of another jurisdiction having similar elements.

11 (c) The department shall develop procedures for rechecking criminal justice  
12 information records for the information described in (a) of this section for persons who  
13 are 16 years of age or older who are living in a licensed foster home with access to  
14 children placed by the department.

15 \* **Sec. 76.** AS 47.35.023(b) is repealed and reenacted to read:

16 (b) Notwithstanding (a) of this section, if an emergency exists and a child must  
17 be immediately placed, the department or the department's designee may issue a  
18 provisional foster home license on an emergency basis for a period of 90 days or less  
19 if the department or the department's designee determines that the applicant meets  
20 minimal requirements for emergency conditions and the applicant agrees in writing to  
21 provide the fingerprint information described in AS 47.35.017(b) within 30 days of the  
22 placement of a child in the foster home. The department may extend a provisional  
23 foster home license issued under this subsection for an additional period of up to 90  
24 days in order to obtain the information from the national criminal background check  
25 required under AS 47.35.017(b)(6). The department may not issue a license under this  
26 subsection before checking state and national criminal justice information available to  
27 the department under AS 12.62 and regulations adopted under AS 12.62 about the  
28 administrator or foster parent and each person who is 16 years of age or older in the  
29 foster home who will have contact with the child. If the department cannot obtain  
30 direct access to the state and federal criminal justice information, the department shall  
31 request the agency having primary law enforcement responsibility for the geographic

1 area in which the prospective foster home is located to obtain the information and  
 2 provide it to the department before the license is issued under this section. If the  
 3 criminal justice information readily available to the department shows an offense which  
 4 a person would be required to notify the department under AS 47.35.047(b), the  
 5 department may not issue the license under this subsection. If the additional criminal  
 6 justice information available from the fingerprint search or another source after the  
 7 license is issued reveals that the person has a record for one or more of these offenses,  
 8 the department shall immediately revoke the license and move the child to an  
 9 appropriate placement. For purposes of obtaining criminal justice information under  
 10 this subsection, the department is a criminal justice agency conducting a criminal justice  
 11 activity under AS 12.62.

12 \* **Sec. 77.** AS 47.35.047(b) is amended to read:

13 (b) A licensee shall notify the department within 24 hours after having  
 14 knowledge of a conviction or indictment, presentment, or charging by information or  
 15 complaint of an administrator, foster parent, member of the licensee's household, regular  
 16 volunteer, or staff person for a **violation of the following laws or the laws of another**  
 17 **jurisdiction with similar elements:**

18 (1) **offenses against the family and vulnerable adults under**  
 19 **AS 11.51;**

20 (2) **perjury under AS 11.56.200;**

21 (3) **offenses included in the definition of "serious offense" under**  
 22 **AS 12.62.900** [FELONY, FOR A MISDEMEANOR CRIME OF ASSAULT,  
 23 RECKLESS ENDANGERMENT, CONTRIBUTING TO THE DELINQUENCY OF A  
 24 MINOR, OR MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE, FOR  
 25 THE CRIME OF PERJURY, AS DEFINED IN AS 11 OR THE LAWS OF ANOTHER  
 26 JURISDICTION, OR FOR A SEX CRIME AS DEFINED IN AS 12.62.035].

27 \* **Sec. 78.** AS 47.35.900 is amended by adding new paragraphs to read:

28 (20) "criminal justice information" has the meaning given in  
 29 AS 12.62.900;

30 (21) "domestic violence" has the meaning given in AS 18.66.990;

31 (22) "serious offense" has the meaning given in AS 12.62.900.

1     \* **Sec. 79.** AS 47.10.080(k), and 47.10.990(7) are repealed.

2     \* **Sec. 80.** COURT RULE CHANGE; EXPEDITED APPEALS. (a) AS 47.10.080(i), as  
3 amended in sec. 40 of this Act, has the effect of amending Rule 218, Alaska Rules of  
4 Appellate Procedure, by requiring that expedited appeals from a judgment or an order under  
5 AS 47.10 be decided within a fixed timeframe.

6           (b) Section 40 of this Act takes effect only if this section receives the two-thirds  
7 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

8     \* **Sec. 81.** COURT RULE CHANGES; CINA RULES. (a) Many provisions enacted or  
9 amended by secs. 29 - 57 of this Act have the effect of amending the Alaska Child in Need  
10 of Aid Rules, including rules regarding notice, parties, hearings, filing of petitions or reports,  
11 court review of orders, termination of parental rights, and duties of the Department of Health  
12 and Social Services.

13           (b) Sections 29 - 57 of this Act take effect only if this section receives the two-thirds  
14 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

15     \* **Sec. 82.** APPLICABILITY. This Act applies to all new cases or proceedings filed with  
16 the court on or after the effective date of this Act and to motions filed with the court on or  
17 after the effective date of this Act in cases or proceedings pending before a court on the day  
18 before the effective date of this Act.

19     \* **Sec. 83.** This Act takes effect immediately under AS 01.10.070(c).