

SENATE BILL NO. 73

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/30/97

Referred: L&C, HESS, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the citizen review board and panels for permanency planning
2 for children in state foster care; extending the termination date of the Citizens'
3 Foster Care Review Board; and providing for an effective date."

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

5 * **Section 1.** AS 44.66.010(17) is amended to read:

6 (17) Citizens' **Foster Care** Review **Board** [PANEL FOR
7 PERMANENCY PLANNING] under AS 47.14.200 - June 30, **2000** [1997];

8 * **Sec. 2.** AS 47.10.080(m) is amended to read:

9 (m) Within 60 days after the date a child is removed from the child's home by
10 the department, the department shall notify the **Citizens' Foster Care Review Board**
11 [APPROPRIATE LOCAL CITIZEN OUT-OF-HOME CARE REVIEW PANEL]
12 established **in AS 47.14.200** [UNDER AS 47.14.220].

13 * **Sec. 3.** AS 47.10.080(n) is amended to read:

14 (n) Within 60 days after a court orders a child committed to the department

1 under (c) of this section and at a review under (f) or (l) of this section, the department
 2 shall inform the parties about the local [CITIZEN OUT-OF-HOME CARE] review
 3 panel established under AS 47.14.220.

4 * **Sec. 4.** AS 47.10.093(b) is amended to read:

5 (b) A state or municipal agency or employee may disclose information
 6 regarding a case to

7 (1) a guardian ad litem appointed by the court or to a citizen review
 8 **board or local review** panel for permanency planning authorized by AS 47.14.200 or
 9 47.14.220;

10 (2) a person or an agency requested to provide consultation or services
 11 for a minor who is subject to the jurisdiction of the court under AS 47.10.010;

12 (3) school officials as may be necessary to protect the safety of school
 13 students and staff;

14 (4) a governmental agency as may be necessary to obtain that agency's
 15 assistance for the department in its investigation or to obtain physical custody of a
 16 child; and

17 (5) a state or municipal law enforcement agency as may be necessary
 18 for a specific investigation being conducted by that agency or for disclosures by that
 19 agency to protect the public safety.

20 * **Sec. 5.** AS 47.10.142(g) is amended to read:

21 (g) Within 60 days after a court orders a child committed to the department
 22 under this section, the department shall inform the parties about the local [CITIZEN
 23 OUT-OF-HOME CARE] review panel established under AS 47.14.220.

24 * **Sec. 6.** AS 47.12.120(h) is amended to read:

25 (h) Within 60 days after the date a minor is removed from the minor's home
 26 by the department, the department shall notify the **Citizens' Foster Care Review**
 27 **Board** [APPROPRIATE LOCAL CITIZEN OUT-OF-HOME CARE REVIEW
 28 PANEL] established **in AS 47.14.200** [UNDER AS 47.14.220].

29 * **Sec. 7.** AS 47.12.310(b) is amended to read:

30 (b) A state or municipal agency or employee may disclose information
 31 regarding a case to

1 (1) a guardian ad litem appointed by the court [OR TO A CITIZEN
2 REVIEW PANEL FOR PERMANENCY PLANNING AUTHORIZED BY
3 AS 47.14.200 - 47.14.220];

4 (2) a person or an agency requested to provide consultation or services
5 for a minor who is subject to the jurisdiction of the court under this chapter;

6 (3) school officials as may be necessary to protect the safety of school
7 students and staff;

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

11 (5) a state or municipal law enforcement agency as may be necessary
12 for a specific investigation being conducted by that agency or for disclosures by that
13 agency to protect the public safety; and

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

16 * **Sec. 8.** AS 47.14.200(a) is repealed and reenacted to read:

17 (a) There is created in the Department of Administration the Citizens' Foster
18 Care Review Board. The board consists of five public members appointed by the
19 governor from among persons interested and knowledgeable about permanency needs
20 of children in state foster care. The governor may not appoint a person who has
21 committed a felony or violated AS 11.51.130 or a law with substantially similar
22 elements. The board also includes the following state officials or their designees:

23 (1) the commissioner of health and social services;

24 (2) the director of the office of public advocacy;

25 (3) the attorney general;

26 (4) the public defender appointed under AS 18.85.030.

27 * **Sec. 9.** AS 47.14.200(b) is amended to read:

28 (b) **Public** [APPOINTED] members of the **board** [STATE PANEL] serve at
29 the pleasure of the governor for staggered terms of three years or until their successors
30 are appointed. **These members may be reappointed to successive terms not to**
31 **exceed six consecutive years.**

1 * **Sec. 10.** AS 47.14.200(c) is amended to read:

2 (c) The [VOTING] members of the **board** [STATE PANEL] shall elect from
3 among the **public** [VOTING] members a chair who shall serve for one year. **Five**
4 [THREE VOTING] members of the **board** [STATE PANEL] constitute a quorum for
5 the transaction of business **if at least three of the public members are present.** The
6 **board** [PANEL] may not take official action without the affirmative vote of at least
7 three of its members **with at least two of the affirmative votes being made by**
8 **public members.**

9 * **Sec. 11.** AS 47.14.200(d) is amended to read:

10 (d) Members of the **board** [STATE PANEL] are entitled to reimbursement for
11 actual expenses necessary to perform their duties as **board** [STATE PANEL] members.
12 The reimbursement may not exceed the amount of per diem and expenses authorized
13 for boards and commissions under AS 39.20.180.

14 * **Sec. 12.** AS 47.14.200(e) is amended to read:

15 (e) The **board** [STATE PANEL] shall meet **at least** twice annually. Meetings
16 may take place telephonically.

17 * **Sec. 13.** AS 47.14.200(f) is amended to read:

18 (f) The **board** [STATE PANEL] may employ **an executive director** [A
19 PROGRAM COORDINATOR] who shall serve at the pleasure of the **board** [STATE
20 PANEL]. The **executive director** [PROGRAM COORDINATOR] shall employ staff
21 as necessary to carry out the **executive director's** [PROGRAM COORDINATOR'S]
22 duties under **board** [STATE PANEL] directives and to provide **technical** [CLERICAL]
23 assistance to local **review** panels. **The board may delegate duties to the executive**
24 **director as necessary to assist the board in administering AS 47.14.200 - 47.14.299.**

25 * **Sec. 14.** AS 47.14.210 is amended to read:

26 **Sec. 47.14.210. Powers and duties** [DUTIES] of the **board** [STATE
27 PANEL]. The **board** [STATE PANEL] shall

28 **(1) hold regular and special meetings the board considers necessary;**

29 **(2)[(1)] adopt regulations necessary** [BY REGULATION ADOPT
30 POLICIES AND PROCEDURES] to carry out its duties and to govern the performance
31 of the duties of the local **review** panels established under AS 47.14.220;

1 (3)[(2)] ensure that the public members of local review panels
 2 [PANEL MEMBERS] receive the [MINIMUM] level of training necessary to
 3 effectively carry out their duties, document in the board's records that the public
 4 members have completed the training, and ensure that a public member does not
 5 review a case until training has been received;

6 (4)[(3)] coordinate and review the activities of the local review panels
 7 [AND MAKE RECOMMENDATIONS TO THE GOVERNOR ON APPOINTMENTS
 8 TO THE LOCAL PANELS];

9 (5) apply for private and federal grants and solicit contributions,
 10 gifts, and bequests, to administer and implement AS 47.14.200 - 47.14.299;

11 (6) award grants or contracts from available money to local
 12 governmental or public or private non-profit agencies to carry out projects or
 13 studies related to improving the system for permanency needs of children in state
 14 foster care;

15 (7) use board staff, or award contracts, to evaluate applicants for
 16 public members of local review panels and to provide training to local review
 17 panel members;

18 (8)[(4)] prepare a report annually[, BY THE 10TH DAY OF EACH
 19 REGULAR SESSION OF THE LEGISLATURE,] concerning the activities of the state
 20 board and the local review panels during the previous fiscal year; the report must
 21 include the number of cases reviewed by each local review panel, a description of the
 22 characteristics of the children whose cases were reviewed by the local review panels,
 23 the number of children reunited with their families, the number of children placed in
 24 other permanent homes, and recommendations and justifications for program
 25 improvement, including recommendations relating to state agencies and to the panel
 26 review system; the report may contain other information on the experience of the local
 27 review panels; the board [STATE PANEL] shall provide the governor and
 28 [NOTIFY] the legislature with [THAT] the report [IS AVAILABLE].

29 * Sec. 15. AS 47.14.220 is amended to read:

30 Sec. 47.14.220. **Appointment of local review panels.** (a) The board
 31 [GOVERNOR] shall appoint for each judicial district [A LOCAL CITIZEN

1 OUT-OF-HOME CARE REVIEW PANEL COMPOSED OF] five to 10 persons
 2 available to serve as public members on local review panels, [AND TWO
 3 ALTERNATES] who are residents of the judicial district. Public members
 4 [MEMBERS] shall serve staggered [THREE-YEAR] terms of three years or until
 5 their successors are [EXCEPT THAT, WHEN A LOCAL PANEL IS INITIALLY]
 6 appointed. Public members may be reappointed to successive terms not to exceed
 7 six consecutive years[, TWO MEMBERS SHALL BE APPOINTED FOR
 8 THREE-YEAR TERMS, TWO MEMBERS FOR TWO-YEAR TERMS, AND ONE
 9 MEMBER FOR A ONE-YEAR TERM. ALTERNATES SHALL BE APPOINTED
 10 TO THREE-YEAR TERMS].

11 (b) The board [GOVERNOR] shall appoint as public members [TO A
 12 LOCAL PANEL] persons who have training, experience, special knowledge, or a
 13 demonstrated interest in the welfare of children. An out-of-home care provider or a
 14 person employed by the court system, the department, the office of public advocacy,
 15 the Public Defender Agency, or the Department of Law may not serve as a public
 16 member [OR ALTERNATE MEMBER] of a local review panel. The board
 17 [GOVERNOR] may not appoint a person who has committed a felony or violated
 18 AS 11.51.130 or a law with substantially similar elements.

19 (c) A local review panel shall consist of three public members appointed
 20 under this section and two members from the department. The commissioner of
 21 the department shall select employees of the department to serve on a local review
 22 panel. The local review panel shall be chaired by one of the public members.
 23 The public members [COMPOSITION] of a local review panel must be reasonably
 24 representative of the various social, economic, racial, ethnic, and cultural groups of the
 25 district from which the members are appointed.

26 (d) If the board [STATE PANEL] determines that additional public members
 27 [LOCAL PANELS] are necessary in a judicial district because of excessively large or
 28 complex caseloads for review or because of the demographics of cases, [OR
 29 DETERMINES THAT A LOCAL PANEL IS NOT NECESSARY BECAUSE OF A
 30 REDUCED CASELOAD,] the board [GOVERNOR] may appoint additional public
 31 members [CREATE OR DISSOLVE A LOCAL PANEL. THE GOVERNOR MAY

1 NOT REDUCE THE NUMBER OF PANELS IN A JUDICIAL DISTRICT TO
 2 FEWER THAN ONE]. Appointments of public members [TO A PANEL
 3 ESTABLISHED] under this subsection are governed by (a) - (c) of this section.

4 **Public members serve on the panel at the pleasure of the board.**

5 (e) When a person is appointed to serve **as a public member** on a local
 6 **review** panel, the person shall swear or affirm **in writing** to keep confidential all
 7 information that comes before the local **review** panel except for nonidentifying case
 8 information included in a report to the state **board** [PANEL], information for reports
 9 required under AS 47.17, or as required by court order for good cause shown. A
 10 **public member of a local review** panel [MEMBER] may also share confidential
 11 information, **on a need to know basis**, with other members of the local **review** panel,
 12 **the board**, and **the** staff who serve the **board or** local **review** panel.

13 * **Sec. 16.** AS 47.14.230(a) is amended to read:

14 (a) A local **review** panel shall conduct its meetings in the judicial district in
 15 which its **public** members reside.

16 * **Sec. 17.** AS 14.14.230(d) is amended to read:

17 (d) A **public member of a local review** panel [MEMBER] is not eligible for
 18 travel expenses, per diem, or other expenses for service on the local **review** panel
 19 unless the state **board** [PANEL] requires **the public** [A LOCAL PANEL] member to
 20 travel to attend a meeting. If the state **board** [PANEL] requires a **public member of**
 21 **a local review** panel [MEMBER] to travel to attend a meeting, the **public** [LOCAL
 22 PANEL] member is entitled to reimbursement for actual expenses incurred by the
 23 member in attending the meeting, except that the reimbursement may not exceed the
 24 amount of per diem and expenses authorized for boards and commissions under
 25 AS 39.20.180.

26 * **Sec. 18.** AS 47.14.240 is amended to read:

27 **Sec. 47.14.240. Duties of local review panel.** (a) A local **review** panel shall
 28 review the case plan of each child in the custody of the department who is in a
 29 placement other than the child's own home under AS 47.10.080(c)(1) or (3),
 30 47.10.142, [AS 47.12.120(b)(3),] or AS 47.14.100(c) if the case is under the
 31 jurisdiction of a court in the judicial district served by the **local review** panel. A local

1 review panel may request a local review panel in another judicial district to conduct
 2 a review and make a report if that local review panel is more convenient for the child
 3 and other persons involved.

4 (b) The local review panel shall review a case as required under 42 U.S.C.
 5 671 - 675 (P.L. 96-272) within 180 days after the day the child is initially removed
 6 from the child's home and every six months thereafter. A court review may be
 7 substituted for a review required under this subsection if the court review meets the
 8 requirements of this subsection.

9 (c) At least 30 days before the local review panel [IT] begins a review, or
 10 as soon as practicable, department staff [THE LOCAL PANEL] shall provide
 11 written notice to the following persons that a review will be conducted and that each
 12 person notified may participate in the review:

13 (1) the appropriate employees of the department with knowledge
 14 about the case, if not serving on the panel;

15 (2) the child or the child's legal representative;

16 (3) the child's parents;

17 (4) the child's guardian;

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

19 (6) the child's out-of-home care provider; and

20 (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child
 21 Welfare Act),

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

23 (B) the designated representative of the child's Indian tribe if
 24 the tribe has intervened in the court case.

25 (d) In reviewing a case, the local review panel shall consider the case plan and
 26 any progress report of the department or the child's guardian ad litem, court records,
 27 and other relevant information about the child and the child's family. Department
 28 staff [THE LOCAL PANEL] shall [ALSO] provide to the following persons an
 29 opportunity to be interviewed by the local review panel in person or by telephone or
 30 to provide written material to the panel:

31 (1) the child whose case is being reviewed if the child is 10 years of

1 age or older;

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

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

4 (4) the child's guardian;

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

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

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

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

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

12 (8) other persons with a close personal knowledge of the case.

13 (e) At the discretion of the child's guardian ad litem, if the child whose case
14 is being reviewed is under 10 years of age, the child may be present at interviews
15 conducted under (d) of this section and during review by the local review panel, or
16 may be interviewed. At the child's request, a child who is 10 years of age or older
17 shall be allowed to be present at interviews or a review of the local review panel that
18 concerns the child's case unless the panel determines that for good cause the child's
19 presence would be contrary to the best interests of the child or there is other good
20 cause for denying the child's request.

21 (f) During a review under (a) of this section, a local review panel shall

22 (1) determine whether the child has a case plan designed to achieve
23 placement in the least restrictive, most family-like setting available in close proximity
24 to the home of the child's parents that is consistent with the best interests of and
25 special needs and circumstances of the child;

26 (2) evaluate the continuing necessity and appropriateness of the child's
27 placement, the extent of the compliance with the child's case plan, and the extent of
28 progress that has been made toward mitigating the causes that necessitated placement
29 away from the child's parents;

30 (3) ascertain the date by which it is likely the child may be returned
31 to the home or placed for adoption or legal guardianship;

1 (4) determine whether there has been compliance with applicable
 2 provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act) and other applicable
 3 state and federal laws; and

4 (5) determine whether there has been compliance with court review
 5 requirements of AS 47.10.080(f) and (l) **and** [,] 47.10.142(h)[, AND AS 47.12.120(d)
 6 AND (g)].

7 (g) The local **review** panel shall within 30 days after reviewing the case
 8 submit a **final** written report to the persons listed in (c) of this section. **If the local**
 9 **review panel cannot reach unanimous decision on any of the required findings or**
 10 **the content of the report, the vote of the majority of public members shall be**
 11 **reflected as the majority opinion and the vote of the other members of the panel**
 12 **shall be reflected as the minority opinion. After the vote, department staff shall**
 13 **prepare a draft report reflecting the decisions reached. The chair of the local**
 14 **review panel shall review the draft report to ensure that the report is complete**
 15 **and accurate. The chair shall sign on behalf of the local review panel if the**
 16 **report is complete and accurate. The signed report shall be designated as a final**
 17 **report of the local review panel.**

18 (h) The report required under (g) of this section must make advisory
 19 recommendations based on the best interests of the child in accordance with
 20 AS 47.10.082 and must include notification of the right to request court review under
 21 AS 47.10.080(f) [OR AS 47.12.120(d), AS APPROPRIATE]. If the court has
 22 scheduled the case for review, the local **review** panel shall submit its report at least
 23 20 days before the hearing.

24 (i) The local **review** panel shall report to the state **board** [PANEL] information
 25 needed by the state **board** [PANEL] to prepare the report required under
 26 AS 47.14.210.

27 * **Sec. 19.** AS 47.14.250 is amended to read:

28 **Sec. 47.14.250. Cooperation with state board and local review panels.** The
 29 department, Department of Law, public defender, office of public advocacy, and court
 30 system shall cooperate with the state **board** [PANEL] and the local **review** panels to
 31 facilitate timely review of plans for children whose cases are **reviewed** under

1 **AS 47.14.200 - 47.14.299** [THE JURISDICTION OF THE PANELS].

2 * **Sec. 20.** AS 47.14.260 is amended to read:

3 **Sec. 47.14.260. Records: communications.** (a) Notwithstanding
 4 AS 47.10.090 **and** [,] 47.10.093[, AS 47.12.300, AND 47.12.310], at the request of a
 5 local **review** panel, the department, the child's guardian ad litem, and the court shall
 6 furnish to the local **review** panel relevant records concerning a child and the child's
 7 family who are the subjects of a local panel review. At the conclusion of a review,
 8 all copies of records provided to a local **review** panel under this section shall be
 9 returned to the staff that serves the local **review** panel or to the agency from which the
 10 original copy was obtained unless the **local review** panel members need the copies to
 11 prepare the reports required under AS 47.14.240(g) - (i). Copies retained for
 12 preparation of the reports shall be returned to the staff that serves the local **review**
 13 panel or to the originating agency upon completion of the reports. Notwithstanding
 14 AS 44.62.310, records and reports of the local **review** panel, testimony before the local
 15 **review** panel, and deliberations of the local **review** panel are confidential under
 16 AS 47.10.090 [AND AS 47.12.310].

17 (b) A **public member of a** local **review** panel [MEMBER] may not reveal to
 18 another person, other than another member of the local **review** panel or the staff
 19 serving the local **review** panel, a communication made to the member while
 20 performing the member's duties under AS 47.14.200 - 47.14.299 except as required
 21 under AS 47.17 or as required by court order for good cause shown. A **public**
 22 **member of a** local **review** panel [MEMBER] may share with the state **board**
 23 [PANEL] communications made during the **public** [LOCAL PANEL] member's
 24 performance of official duties if the **public** [LOCAL PANEL] member omits
 25 identifying information.

26 (c) A local **review** panel proceeding is not governed by AS 44.62.310.

27 * **Sec. 21.** AS 47.14.270 is repealed and reenacted to read:

28 **Sec. 47.14.270. Court review of report.** (a) The department shall submit the
 29 final report of a local review panel to the court for the court's consideration under
 30 AS 47.10.080(f) and at other disposition hearings under AS 47.10.

31 (b) The court may refer to the board for assignment to a local review panel a

1 case called for a special review under AS 47.10.080(f), as appropriate.

2 * **Sec. 22.** AS 47.14.280 is amended to read:

3 **Sec. 47.14.280. Immunity [INDEMNIFICATION] of board and panel**
 4 **members.** A state **board** [PANEL] member and a local **review** panel member shall
 5 be **immune from** [INDEMNIFIED BY THE STATE FOR] civil liability for a
 6 negligent act or omission of the **board or** panel member that occurs in the
 7 performance of the member's duties under AS 47.14.200 - 47.14.299 unless the civil
 8 liability results from the [PANEL] member's **gross negligence or** violation of

9 (1) AS 47.14.260(b); or

10 (2) the oath or affirmation required **of a local review panel member**
 11 under AS 47.14.220(e).

12 * **Sec. 23.** AS 47.14.299 is amended to read:

13 **Sec. 47.14.299. Definitions.** In AS 47.14.200 - 47.14.299,

14 (1) **"board" means the state board;**

15 (2) **"department" means the Department of Health and Social**
 16 **Services;**

17 (3)[(1)] "local **review** panel" means a local [CITIZEN OUT-OF-HOME
 18 CARE] review panel appointed under AS 47.14.220;

19 (4)[(2)] "out-of-home care provider" means an agency or person, other
 20 than the child's legal parents, with whom a child who is in the custody of the state
 21 under AS 47.10.080(c)(1) or (3), 47.10.142, [AS 47.12.120(b)(3),] or AS 47.14.100(c)
 22 is currently placed; in this paragraph, "agency or person" includes a foster parent, a
 23 relative other than a parent, a person who has petitioned for adoption of the child, and
 24 a residential child care facility;

25 (5) **"panel" means a local review panel;**

26 (6)[(3)] "state **board** [PANEL]" means the Citizens' **Foster Care**
 27 Review **Board** [PANEL FOR PERMANENCY PLANNING] established **in** [UNDER]
 28 AS 47.14.200.

29 * **Sec. 24.** AS 47.14.230(b) and (c) are repealed.

30 * **Sec. 25.** TRANSITION. (a) Notwithstanding secs. 1 - 24 of this Act, the
 31 commissioner of administration may phase in implementation of this Act. Local review panels

1 shall begin hearing all cases covered by this Act in Anchorage as soon as possible. Subject
2 to appropriations, local review panels shall be implemented in the remainder of the state as
3 soon as practicable.

4 (b) To the maximum extent for which appropriations are available, local review panels
5 shall be in place in all judicial districts no later than 24 months after the effective date of this
6 Act.

7 * **Sec. 26.** This Act takes effect immediately under AS 01.10.070(c).