

**HOUSE BILL NO. 392**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES WHITAKER, Dyson

Introduced: 2/16/00

Referred: Health, Education and Social Services, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to continuances for temporary placement hearings that follow  
2 emergency custody of a minor; and amending Rule 10, Alaska Child in Need of  
3 Aid Rules."

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

5 \* **Section 1.** AS 47.10.142(d) is amended to read:

6 (d) The court shall immediately, and in no event more than 48 hours after  
7 being notified unless prevented by lack of transportation, hold a **temporary placement**  
8 hearing at which the minor, if the minor's health permits, and the minor's parents or  
9 guardian, if they can be found, shall be permitted to be present. **If present at the**  
10 **hearing, a parent or guardian of the minor may request a continuance of the**  
11 **hearing for up to seven calendar days for the purpose of preparing a response to**  
12 **the allegation that the minor is a child in need of aid. The court may grant the**  
13 **request on a showing of good cause for why the parent or guardian is not**  
14 **prepared to respond to the allegation. During a continuance, the minor remains**

1 **in the emergency custody of the department. The court may not grant more than**  
 2 **one continuance before a temporary placement hearing is held. When the**  
 3 **temporary placement hearing is held, the** [THE] court shall determine whether  
 4 probable cause exists for believing the minor to be a child in need of aid, as defined  
 5 in AS 47.10.990. The court shall inform the minor, and the minor's parents or  
 6 guardian if they can be found, of the reasons given as constituting probable cause and  
 7 the reasons given as authorizing the minor's temporary placement.

8 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section  
 9 to read:

10 DIRECT COURT RULE AMENDMENT. Rule 10(a), Alaska Child in Need of Aid  
 11 Rules, is amended to read:

12 (a) **Time of Hearing.** At the request of the petitioner, the court shall schedule  
 13 a temporary custody hearing:

14 (1) within 48 hours, including weekends and holidays, of when the  
 15 court is notified by the filing of a petition that emergency custody was taken pursuant  
 16 to CINA Rule 6(a) or (b); **on request of a parent or guardian who is present at the**  
 17 **hearing and a showing of good cause for why the parent or guardian is not**  
 18 **prepared to respond to the petition, the court may grant a continuance of the**  
 19 **hearing for up to seven calendar days;** or

20 (2) within a reasonable time following the filing of a petition when  
 21 emergency custody has not been taken.

22 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section  
 23 to read:

24 DIRECT COURT RULE AMENDMENT. Rule 10(b)(2), Alaska Child in Need of Aid  
 25 Rules, is amended to read:

26 (2) **Advice of Rights.** The court shall advise the parties of their right  
 27 to counsel, including the right to court-appointed counsel if applicable; the child's right  
 28 to a guardian ad litem; their right to a hearing at which the state is required to present  
 29 evidence to prove the allegations in its petition; their right to confront and cross-  
 30 examine witnesses at such a hearing, to present witnesses on their own behalf, and to  
 31 compulsory process to compel these witnesses to attend; and their privilege against

1 self-incrimination. In cases involving an Indian child, the court shall also advise the  
2 parties of an Indian custodian's or tribe's right to intervene. **If the hearing is being**  
3 **held because emergency custody was taken pursuant to CINA Rule 6(a) or (b), the**  
4 **court shall also advise the child's parents or guardian, if they are present at the**  
5 **hearing, that they have the right to request a continuance of the hearing for up**  
6 **to seven calendar days if they are not prepared to respond to the allegation that**  
7 **the child is a child in need of aid.**

8 \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section  
9 to read:

10 **INDIRECT COURT RULE AMENDMENT.** AS 47.10.142(d), as amended by sec. 1  
11 of this Act, amends Rule 10, Alaska Child in Need of Aid Rules, by providing for a  
12 continuance of a temporary hearing that follows emergency custody of a child.

13 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section  
14 to read:

15 **APPLICABILITY.** This Act applies to circumstances in which emergency custody of  
16 a minor is taken by the state on or after the effective date of this Act.