

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 409

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES DYSON, Kookesh

Introduced: 2/23/00

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

A BILL

FOR AN ACT ENTITLED

1 "An Act prescribing the rights of grandparents related to hearings on petitions
2 to adjudicate a minor as a child in need of aid and to the testimony of
3 grandparents at those hearings; and amending Rules 3, 7, 10, 15, 17(e), and 19,
4 Alaska Child in Need of Aid Rules."

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

6 * **Section 1.** AS 47.10.030(b) is amended to read:

7 (b) In all cases under this chapter, the child, each parent, the tribe, foster
8 parent or other out-of-home care provider, guardian, and guardian ad litem of the child
9 and, subject to (d) of this section, each grandparent of the child shall be given
10 notice adequate to give actual notice of the proceedings and the possibility of
11 termination of parental rights and responsibilities, taking into account education and
12 language differences that are known or reasonably ascertainable by the petitioner or
13 the department. The notice of the hearing must contain all names by which the child
14 has been identified. Notice shall be given in the manner appropriate under rules of

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

9 * **Sec. 2.** AS 47.10.030 is amended by adding a new subsection to read:

10 (d) The first notice that shall be given to a grandparent under (b) of this
 11 section must be for the first hearing that occurs in a child's case, except that if the first
 12 hearing is conducted under AS 47.10.142(d), then the first notice that shall be given
 13 to a grandparent under (b) of this section must be for the first hearing that occurs after
 14 the hearing held under AS 47.10.142(d). Except for the first notice that is provided
 15 to a grandparent, a notice of any other proceeding in the same case shall be provided
 16 to a grandparent of the child only if the grandparent has requested in writing that the
 17 department give notice of further proceedings in the case to the grandparent. A notice
 18 provided under this subsection must, in accordance with (b) of this section, be
 19 adequate to give actual notice of the proceedings.

20 * **Sec. 3.** 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 The court shall give notice of the hearing to the department, and it may send a
 23 representative to the hearing. The court shall also transmit a copy of the petition to
 24 the department. The department shall send notice of the hearing to the persons for
 25 whom notice is required under AS 47.10.030(b) **and to each grandparent of the child**
 26 **who has requested notice under AS 47.10.030(d)**. The department and the persons
 27 to whom the department must send notice of the hearing are entitled to be heard at the
 28 hearing. However, the court may limit the presence of the foster parent or other out-
 29 of-home care provider **and of any grandparent of the child** to the time during which
 30 the person's testimony is being given if it is (1) in the best interest of the child; or (2)
 31 necessary to protect the privacy interests of the parties and will not be detrimental to

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

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

5 (f) A child found to be a child in need of aid is a ward of the state while
 6 committed to the department or the department has the power to supervise the child's
 7 actions. For an order made under (c)(1) of this section, the court shall hold a
 8 permanency hearing as required by (l) of this section and at least annually thereafter
 9 during the continuation of foster care to determine if continued placement, as it is
 10 being provided, is in the best interest of the child. The department, the child, and the
 11 child's parents, guardian, and guardian ad litem are entitled, when good cause is
 12 shown, to a permanency hearing on application. If the application is granted, the court
 13 shall afford these persons and their counsel reasonable advance notice and hold a
 14 permanency hearing where these persons and their counsel shall be afforded an
 15 opportunity to be heard. The persons entitled to notice under AS 47.10.030(b) **and the**
 16 **grandparents of the child who have requested notice under AS 47.10.030(d)** are
 17 entitled to notice of a permanency hearing under this subsection and are also entitled
 18 to be heard at the hearing. The child shall be afforded the opportunity to be present
 19 and to be heard at the permanency hearing. After the permanency hearing, the court
 20 shall make the written findings that are required under (l) of this section. The court
 21 shall review an order made under (c)(2) of this section at least annually to determine
 22 if continued supervision, as it is being provided, is in the best interest of the child; this
 23 review is not considered to be a permanency hearing and is not governed by the
 24 provisions of this subsection that relate to permanency hearings.

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

27 **DIRECT COURT RULE AMENDMENT.** Rule 17(e), Alaska Child in Need of Aid
 28 Rules, is amended to read:

29 (e) **Evidence.** Hearsay which is not otherwise admissible under a recognized
 30 exception to the hearsay rule may be admissible at the disposition hearing and in
 31 review of a disposition order if the hearsay is probative of a material fact, has

1 circumstantial guarantees of trustworthiness, and the appearing parties are given a fair
2 opportunity to meet it. **The court may exercise its independent judgment on the**
3 **evidence. In the exercise of its judgment, the court shall give appropriate weight**
4 **to the testimony of any grandparent of the child at the hearing or other**
5 **proceeding but may not give significant weight to that testimony without making**
6 **a finding of fact that the testimony provided by a grandparent of the child at the**
7 **hearing provided clear and convincing evidence that is material to the court's**
8 **decision to enter an order under AS 47.10.080.**

9 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section
10 to read:

11 **INDIRECT COURT RULE CHANGE.** (a) AS 47.10.030, as amended by secs. 1 and
12 2 of this Act, AS 47.10.070(a), as amended by sec. 3 of this Act, and AS 47.10.080(f), as
13 amended by sec. 4 of this Act, have the effect of amending Rules 3, 7, 10, 15, and 19, Alaska
14 Child in Need of Aid Rules, by requiring that grandparents be given notice of and an
15 opportunity to be heard at certain child-in-need-of-aid proceedings.

16 (b) Sections 1 - 4 of this Act take effect only if this section receives the two-thirds
17 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.