

HOUSE BILL NO. 164

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES DYSON, Coghill, Cissna, Wilson, Stevens

Introduced: 3/9/01

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act prescribing the rights of grandparents related to child-in-need-of-aid hearings;**
2 **and amending Rules 3, 7, 10, 15, and 19, Alaska Child in Need of Aid Rules."**

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

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

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

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

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

8 (d) The department shall give advance written notice of all court hearings in a
 9 child's case to a grandparent of the child if

10 (1) the grandparent has contacted the department, provided evidence
 11 acceptable to the department of being the child's grandparent, requested notice about
 12 the hearings in the child's case, and provided the department with a current mailing
 13 address; or

14 (2) the department is aware that the child has a grandparent and the
 15 grandparent's mailing address is on file with the department.

16 * **Sec. 3.** AS 47.10.070(a) is amended to read:

17 (a) The court may conduct the hearing on the petition in an informal manner.
 18 The court shall give notice of the hearing to the department, and it may send a
 19 representative to the hearing. The court shall also transmit a copy of the petition to the
 20 department. The department shall send notice of the hearing to the persons for whom
 21 notice is required under AS 47.10.030(b) **and to each grandparent of the child**
 22 **entitled to notice under AS 47.10.030(d)**. The department and the persons to whom
 23 the department must send notice of the hearing are entitled to be heard at the hearing.
 24 However, the court may limit the presence of the foster parent or other out-of-home
 25 care provider **and of any grandparent of the child** to the time during which the
 26 person's testimony is being given if it is (1) in the best interest of the child; or (2)
 27 necessary to protect the privacy interests of the parties and will not be detrimental to
 28 the child. The public shall be excluded from the hearing, but the court, in its
 29 discretion, may permit individuals to attend a hearing if their attendance is compatible
 30 with the best interests of the child.

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

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

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

23 **INDIRECT COURT RULE CHANGE.** (a) AS 47.10.030, as amended by secs. 1 and
 24 2 of this Act, AS 47.10.070(a), as amended by sec. 3 of this Act, and AS 47.10.080(f), as
 25 amended by sec. 4 of this Act, have the effect of amending Rules 3, 7, 10, 15, and 19, Alaska
 26 Child in Need of Aid Rules, by requiring that grandparents be given notice of and an
 27 opportunity to be heard at certain child-in-need-of-aid proceedings.

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