

**SENATE CS FOR CS FOR HOUSE BILL NO. 252(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/11/02

Referred: Finance

Sponsor(s): REPRESENTATIVES COGHILL, Dyson, Foster, Whitaker, Cissna, McGuire, James

SENATORS Therriault, Davis

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the construction of certain statutes relating to children; relating to  
2 the scope of duty and standard of care for persons who provide services to certain  
3 children and families; relating to civil liability for damages to certain children and their  
4 families resulting from failure to comply with certain statutes; relating to intensive  
5 family preservation services; and providing for an effective date."

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

7 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
8 to read:

9 LEGISLATIVE INTENT. By the amendment of AS 47.10.005 in sec. 2 of this Act,  
10 the legislature intends to express its recognition that parents possess inherent, individual rights  
11 to direct and control the education and upbringing of their children.

12 \* **Sec. 2.** AS 47.10.005 is amended to read:

13 **Sec. 47.10.005. Construction.** The provisions of this chapter shall be

1 liberally construed to the end that a child coming within the jurisdiction of the court  
 2 under this chapter may receive the care, guidance, treatment, and control that will  
 3 promote the **best interests of the child, including the parents' participation in the**  
 4 **child's upbringing** [CHILD'S WELFARE].

5 \* **Sec. 3.** AS 47.10.086(a) is amended to read:

6 (a) Except as provided in (b) and (c) of this section, the department shall make  
 7 timely, reasonable efforts to provide family support services to the child and to the  
 8 parents or guardian of the child that are designed to prevent out-of-home placement of  
 9 the child or to enable the safe return of the child to the family home, when appropriate,  
 10 if the child is in an out-of-home placement. **Within appropriations identified by the**  
 11 **department for the specific purpose of intensive family preservation services, the**  
 12 **department shall also offer intensive family preservation services when those**  
 13 **services are available and the child's safety in the home can be maintained during**  
 14 **the time the services are provided.** The department's duty to make reasonable  
 15 efforts under this subsection **to provide family support services** includes the duty to

16 (1) identify family support services that will assist the parent or  
 17 guardian in remedying the conduct or conditions in the home that made the child a  
 18 child in need of aid;

19 (2) actively offer the parent or guardian, and refer the parent or  
 20 guardian to, the **family support** services identified under (1) of this subsection; the  
 21 department shall refer the parent or guardian to community-based family support  
 22 services whenever community-based services are available and desired by the parent  
 23 or guardian; and

24 (3) document the department's actions that are taken under [(1) AND  
 25 (2) OF] this subsection; **the documentation required under this paragraph must**  
 26 **include**

27 **(A) documentation about whether intensive family**  
 28 **preservation services were appropriate, offered, used, or available to the**  
 29 **family; and**

30 **(B) if intensive family preservation services were**  
 31 **appropriate or offered to the family, enumeration of the reasons specific**

1 to the case explaining why intensive family preservation services were  
 2 appropriate or offered.

3 \* **Sec. 4.** AS 47.10.086(b) is amended to read:

4 (b) If the court makes a finding at a hearing conducted under AS 47.10.080(1)  
 5 that a parent or guardian has not sufficiently remedied the parent's or guardian's  
 6 conduct or the conditions in the home despite reasonable efforts made by the  
 7 department in accordance with this section, the court may conclude that continuation  
 8 of reasonable efforts of the type described in (a) of this section are not in the best  
 9 interests of the child. The department shall then make reasonable efforts to place the  
 10 child in a timely manner in accordance with the permanent plan and to complete  
 11 whatever steps are necessary to finalize the permanent placement of the child. **If the**  
 12 **court concludes that continuation of reasonable efforts of the type described in**  
 13 **(a) of this section are not in the best interests of the child and intensive family**  
 14 **preservation services were not provided in the case, the court shall enumerate in**  
 15 **the record the reasons the services were not provided.**

16 \* **Sec. 5.** AS 47.10.142(b) is amended to read:

17 (b) The department shall offer available counseling services **and intensive**  
 18 **family preservation services** to the person having legal custody of a minor described  
 19 in AS 47.10.141 and to the members of the minor's household if it determines that  
 20 counseling services **or intensive family preservation services** would be appropriate  
 21 in the situation. If, after assessing the situation, offering available [COUNSELING]  
 22 services to the legal custodian and the minor's household, and furnishing appropriate  
 23 social services to the minor, the department considers it necessary, the department  
 24 may take emergency custody of the minor.

25 \* **Sec. 6.** AS 47.10 is amended by adding new sections to read:

26 **Article 3A. Intensive Family Preservation Services.**

27 **Sec. 47.10.500. Statewide program.** Subject to AS 47.10.510 and 47.10.520,  
 28 the department shall, within appropriations available for intensive family preservation  
 29 services, develop and implement intensive family preservation services systematically  
 30 and over time, with the ultimate goal of providing intensive family preservation  
 31 services on a statewide basis. The department may provide the services directly or

1 through contracts with private nonprofit providers.

2 **Sec. 47.10.510. Standards for providers.** The department shall develop  
3 measurable standards that must be met by a provider before a contract may be  
4 awarded to, or renewed with, the provider under AS 47.10.500.

5 **Sec. 47.10.520. Eligibility for services.** (a) The department may provide  
6 intensive family preservation services to a child, the child's family, and other  
7 appropriate nonfamily members only if

8 (1) there are no other available means that will prevent out-of-home  
9 placement of the child or make it possible to immediately return the child to the child's  
10 home; and

11 (2) the child has been placed in out-of-home care or is at actual,  
12 imminent risk of out-of-home placement due to

13 (A) child abuse or neglect;

14 (B) a serious threat of substantial harm to the child's health,  
15 safety, or welfare; or

16 (C) any other factor that could lead to out-of-home placement.

17 (b) The department need not provide services to an otherwise eligible family if

18 (1) services are not available in the community in which the family  
19 resides;

20 (2) services cannot be provided because the program is filled to  
21 capacity;

22 (3) the family refuses the services;

23 (4) the child's case plan does not include reunification of the child and  
24 family; or

25 (5) the safety of a child, a family member, or a person providing the  
26 services would be threatened.

27 **Sec. 47.10 530. Solicitation of funding sources.** The department shall solicit  
28 federal and private resources that may be available to fund intensive family  
29 preservation services.

30 **Sec. 47.10.590. Definition.** In AS 47.10.500 - 47.10.590, "intensive family  
31 preservation services" and "services" mean intensive family preservation services, as

1 defined in AS 47.10.990.

2 \* **Sec. 7.** AS 47.10.960 is amended to read:

3 **Sec. 47.10.960. Civil liability [DUTY AND STANDARD OF CARE NOT**  
 4 **CREATED]. Failure by the department to comply with a provision of**  
 5 **[NOTHING IN] this chapter does not, by itself, constitute a basis for civil liability**  
 6 **for damages [TITLE CREATES A DUTY OR STANDARD OF CARE FOR**  
 7 **SERVICES] to children and their families being served under this chapter**  
 8 **[AS 47.10].**

9 \* **Sec. 8.** AS 47.10.990 is amended by adding a new paragraph to read:

10 (28) "intensive family preservation services" means services provided  
 11 to a family with a child who is in an out-of-home placement or is at imminent risk of  
 12 out-of-home placement that

13 (A) are designed to address problems creating the need for out-  
 14 of-home placement by assisting the family to improve parental and household  
 15 management competence, solve day-to-day practical problems that contribute  
 16 to family stress, identify the factors that created the risk of out-of-home  
 17 placement, and participate in the development of the family's case plan so as to  
 18 improve parental performance and enhance functioning of the family unit; and

19 (B) have the following characteristics:

20 (i) are offered at the family's option;

21 (ii) are provided in the family's home;

22 (iii) are available 24 hours a day and seven days a  
 23 week;

24 (iv) are provided within 24 hours of initial contact for  
 25 assistance;

26 (v) are provided on a time-limited basis by a single case  
 27 worker whose caseload is congruent with intensive family preservation  
 28 services standards established by the Child Welfare League of  
 29 America; caseloads shall be kept low to allow for the necessary intense  
 30 level of interaction with the family, and the services shall be most  
 31 intensive at the time of crisis; and

(vi) may, in appropriate instances and subject to available appropriations, include monetary assistance for special needs of the family, such as to obtain food, shelter, or clothing or to purchase other goods or services that will enhance the effectiveness of other services offered to help preserve the family.

\* **Sec. 9.** AS 47.17.030(d) is amended to read:

(d) Before the department or a local government health or social services agency may seek the termination of parental rights under AS 47.10, it shall offer protective social services and pursue all other reasonable means of protecting the child. **The department or agency shall also consider the eligibility of the child and family for intensive family preservation services under AS 47.10.500 - 47.10.590.**

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

STUDY. (a) The Department of Health and Social Services shall conduct a study in at least one region of the state in order to

(1) develop a valid and reliable process for accurately identifying clients who are eligible for intensive family preservation services;

(2) collect data on which to base projections of service needs, budget requests, and long-range planning related to intensive family preservation services;

(3) develop regional and statewide projections of needs for intensive family preservation services;

(4) develop a cost estimate for implementation and expansion of intensive family preservation services on a statewide basis;

(5) develop a long-range plan and time frame for ultimately making intensive family preservation services available to all eligible families; and

(6) collect data regarding the number of children in foster care, group care, institutional care, and other out-of-home care due to medical needs, mental health needs, developmental disabilities, and juvenile offenses and to assess the feasibility of expanding intensive family preservation services eligibility to include all of these children.

(b) By November 30, 2004, the Department of Health and Social Services shall

1 submit a report to the governor describing the study required under this section and including  
2 the department's conclusions and recommendations that are based on the study. The  
3 department shall notify the legislature that the report is available.

4 (c) In this section, "intensive family preservation services" has the meaning given in  
5 AS 47.10.990.

6 \* **Sec. 11.** Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c).

7 \* **Sec. 12.** Sections 3 - 6 and 9 of this Act take effect July 1, 2003.

8 \* **Sec. 13.** Sections 8 and 10 of this Act take effect July 1, 2002.