

**HOUSE BILL NO. 469**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVE CHENAULT**

**Introduced: 2/19/02**

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

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act establishing a new office to be known as the office of the child and family**  
2 **ombudsman and relating to the duties of the office; relating to the existing office of the**  
3 **ombudsman; and providing for an effective date."**

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

5 **\* Section 1.** AS 24 is amended by adding a new chapter to read:

6 **Chapter 57. Office of the Child and Family Ombudsman.**

7 **Article 1. Establishment; Organization.**

8 **Sec. 24.57.010. Position of child and family ombudsman established;**  
9 **jurisdiction.** (a) There is established in the legislative branch a position of child and  
10 family ombudsman.

11 (b) The child and family ombudsman may, subject to the rules of the child and  
12 family ombudsman, investigate, either upon the child and family ombudsman's own  
13 initiative or upon receipt of a complaint, an administrative act of the Department of  
14 Health and Social Services with respect to a child who is or is alleged to be delinquent,

1 abused, neglected, or a child in need of aid in order to determine if the act is

2 (1) contrary to law, regulation, or policy;

3 (2) unreasonable, unfair, oppressive, arbitrary, capricious, an abuse of  
4 discretion, or unnecessarily discriminatory, even if the act is in accordance with law,  
5 regulation, and policy;

6 (3) based on a mistake of fact;

7 (4) based on improper or irrelevant grounds;

8 (5) unsupported by an adequate statement of reason;

9 (6) performed in an inefficient or discourteous manner; or

10 (7) otherwise erroneous.

11 (c) The child and family ombudsman may also investigate to find an  
12 appropriate remedy if an investigation reveals an administrative act that is described in  
13 (b)(1) - (7) of this section.

14 (d) The child and family ombudsman may exercise the child and family  
15 ombudsman's powers without regard to the finality of an administrative act.

16 **Sec. 24.57.020. Selection; qualifications.** (a) The child and family  
17 ombudsman shall be selected by the ombudsman selection committee established  
18 under AS 24.55.020. The provisions applicable to selection of the ombudsman under  
19 AS 24.55.020 are also applicable to the selection of the child and family ombudsman.

20 (b) A person may not serve as the child and family ombudsman

21 (1) within one year after the last day on which the person served as a  
22 member of the legislature;

23 (2) while the person is a candidate for or holds another national, state,  
24 or municipal office, nor may the child and family ombudsman become a candidate for  
25 national, state, or municipal office until one year has elapsed from the date the child  
26 and family ombudsman vacates the office of child and family ombudsman;

27 (3) while the person is engaged in any other occupation for which the  
28 person receives compensation;

29 (4) unless the person is at least 21 years of age and is a qualified voter  
30 who has been a resident of the state for at least three years.

31 **Sec. 24.57.030. Term of office; removal; compensation.** (a) Except as

1 provided in (b) of this section, the term of office of the child and family ombudsman is  
2 five years. A person may be reappointed but may not serve for a total of more than 15  
3 years.

4 (b) Notwithstanding (a) of this section, if the term of the child and family  
5 ombudsman expires without the appointment of a successor, the incumbent child and  
6 family ombudsman may continue in office until a successor is appointed. If the child  
7 and family ombudsman dies, resigns, becomes ineligible to serve under AS 24.57.020,  
8 or is removed or suspended from office, the person appointed as acting child and  
9 family ombudsman under AS 24.57.040 serves until a new child and family  
10 ombudsman is appointed for a full term.

11 (c) The legislature, by a concurrent resolution adopted by a majority of the full  
12 membership of each house according to a roll call vote entered in the journal, may  
13 remove or suspend the child and family ombudsman from office, but only for neglect  
14 of duty, misconduct, or disability.

15 (d) The child and family ombudsman is entitled to receive an annual salary  
16 equal to Step A, Range 26, on the salary schedule set out in AS 39.27.011(a) for  
17 Juneau.

18 **Sec. 24.57.040. Staff; delegation.** (a) The child and family ombudsman shall  
19 appoint a person to serve as acting child and family ombudsman in the absence of the  
20 child and family ombudsman. The child and family ombudsman shall also appoint  
21 assistants and clerical personnel necessary to carry out the duties of the child and  
22 family ombudsman.

23 (b) The child and family ombudsman may delegate to the assistants any of the  
24 child and family ombudsman's duties except those specified in AS 24.57.210 and  
25 24.57.220; however, during the child and family ombudsman's absence from the  
26 principal business offices, the child and family ombudsman may delegate the duties  
27 specified in AS 24.57.210 and 24.57.220 to the acting child and family ombudsman  
28 for the duration of the absence. The duties specified in AS 24.57.210 and 24.57.220  
29 shall be performed by the acting child and family ombudsman when serving under  
30 AS 24.57.030(b).

31 (c) The child and family ombudsman and the staff appointed by the child and

1 family ombudsman are in the exempt service under AS 39.25.110 and are not subject  
2 to the employment policies under AS 24.10 or AS 24.20.

3 **Sec. 24.57.050. Nonpartisanship required.** It is essential that the  
4 nonpartisan nature, integrity, and impartiality of the child and family ombudsman's  
5 functions and services be maintained. The child and family ombudsman and members  
6 of the staff of the child and family ombudsman may not join, support, or otherwise  
7 participate in a partisan political organization, faction, or activity, including the  
8 making of political contributions. However, this section does not restrict the child and  
9 family ombudsman or members of the staff of the child and family ombudsman from  
10 expressing private opinion, registering as to party, or voting.

11 **Sec. 24.57.060. Office facilities and administration.** (a) Subject to  
12 restrictions and limitations imposed by the executive director of the Legislative Affairs  
13 Agency, the administrative facilities and services of the Legislative Affairs Agency,  
14 including computer, data processing, and teleconference facilities, may be made  
15 available to the child and family ombudsman to be used in the management of the  
16 office of the child and family ombudsman and to carry out the duties of the child and  
17 family ombudsman.

18 (b) The salary and benefits of the child and family ombudsman and the  
19 permanent staff of the child and family ombudsman shall be paid through the same  
20 procedures used for payment of the salaries and benefits of other permanent legislative  
21 employees.

22 (c) The child and family ombudsman shall submit a budget for each fiscal year  
23 to the Alaska Legislative Council, and the council shall annually submit an estimated  
24 budget to the governor for information purposes in the preparation of the executive  
25 budget. After reviewing and approving, with or without modifications, the budget  
26 submitted by the child and family ombudsman, the council shall submit the approved  
27 budget to the finance committees of the legislature.

28 **Sec. 24.57.070. Rules of procedure for investigations.** (a) The child and  
29 family ombudsman shall adopt rules establishing procedures for receiving and  
30 processing complaints, conducting investigations, reporting findings, and ensuring that  
31 confidential information obtained by the child and family ombudsman in the course of

1 an investigation will not be improperly disclosed.

2 (b) The child and family ombudsman may not charge a fee for the submission  
3 or investigation of a complaint.

4 **Sec. 24.57.080. Contract procedures.** The child and family ombudsman  
5 shall adopt procedures consistent with AS 36.30 to be followed by the office of the  
6 child and family ombudsman in contracting for services. However, the procedure for  
7 requests for proposals does not apply to contracts for investigations under this chapter,  
8 and the office of the child and family ombudsman shall comply with AS 36.30.170(b).

9 **Sec. 24.57.090. Annual report.** The child and family ombudsman shall  
10 submit to the public an annual report of the child and family ombudsman's activities  
11 under this chapter and notify the legislature that the report is available.

12 **Article 2. Investigations.**

13 **Sec. 24.57.100. Limitations on investigation of complaints.** The child and  
14 family ombudsman shall investigate any complaint that is an appropriate subject for  
15 investigation under AS 24.57.010, unless the child and family ombudsman reasonably  
16 believes that

17 (1) there is presently available an adequate remedy for the grievance  
18 stated in the complaint;

19 (2) the complaint relates to a matter that is outside the jurisdiction of  
20 the child and family ombudsman;

21 (3) the complaint relates to an administrative act of which the  
22 complainant has had knowledge for an unreasonable length of time before the  
23 complaint was submitted;

24 (4) the complainant does not have a sufficient personal interest in the  
25 subject matter of the complaint;

26 (5) the complaint is trivial or made in bad faith;

27 (6) the resources of the child and family ombudsman's office are  
28 insufficient for adequate investigation.

29 **Sec. 24.57.110. Notice to complainant.** (a) If the child and family  
30 ombudsman decides not to investigate a complaint, the child and family ombudsman  
31 shall inform the complainant of that decision and shall state the reasons.

1 (b) If the child and family ombudsman decides to investigate a complaint, the  
2 child and family ombudsman shall notify the complainant of the decision.

3 (c) Notice given under this section may be oral, but the child and family  
4 ombudsman shall state in writing the reasons for not investigating a complaint if  
5 requested by the complainant.

6 **Sec. 24.57.120. Notice to the department.** If the child and family  
7 ombudsman decides to investigate a complaint, the child and family ombudsman shall  
8 notify the Department of Health and Social Services of the intention to investigate  
9 unless the child and family ombudsman believes that advance notice will unduly  
10 hinder the investigation or make it ineffectual. Notice given under this section may be  
11 oral or written, at the discretion of the child and family ombudsman.

12 **Sec. 24.57.130. Investigation procedures and powers.** (a) In an  
13 investigation, the child and family ombudsman may

14 (1) make inquiries and obtain information considered necessary;

15 (2) enter without notice to inspect the premises of the Department of  
16 Health and Social Services or a contractor of the department, but only when  
17 department or contractor personnel are present;

18 (3) hold private hearings; and

19 (4) notwithstanding other provisions of law, have access at all times to  
20 records of every state agency, including confidential records, except sealed court  
21 records, production of which may only be compelled by subpoena, and except for  
22 records of active criminal investigations and records that could lead to the identity of  
23 confidential police informants.

24 (b) Subject to the privileges that witnesses have in the courts of this state, the  
25 child and family ombudsman may compel by subpoena, at a specified time and place,

26 (1) the appearance and sworn testimony of a person who the child and  
27 family ombudsman reasonably believes may be able to give information relating to a  
28 matter under investigation; and

29 (2) the production by a person of a record or object that the child and  
30 family ombudsman reasonably believes may relate to a matter under investigation.

31 (c) If a person refuses to comply with a subpoena issued under (b) of this

1 section, the superior court may, on application of the child and family ombudsman,  
 2 compel obedience by proceedings for contempt in the same manner as in the case of  
 3 disobedience to the requirements of a subpoena issued by the court or refusal to testify  
 4 in the court.

5 **Sec. 24.57.140. Confidentiality.** (a) Except as provided in (b) of this section,  
 6 the child and family ombudsman and staff shall maintain confidentiality with respect  
 7 to all matters, including identifying information about the complainants or witnesses  
 8 coming before the office of the child and family ombudsman.

9 (b) Subject to (c) of this section, the child and family ombudsman and staff  
 10 may, notwithstanding (a) of this section, make disclosures that are necessary to enable  
 11 the child and family ombudsman and staff to carry out an investigation of a complaint  
 12 filed with the office or to support its recommendations.

13 (c) Notwithstanding (b) of this section, the child and family ombudsman and  
 14 staff may not disclose a confidential record obtained from an agency.

15 (d) In this section, "identifying information" includes the complainant's or  
 16 witness's name, location, telephone number, likeness, social security number or other  
 17 identification number, or identification of immediate family members.

### 18 **Article 3. Procedure and Report After Investigation.**

19 **Sec. 24.57.200. Consultation.** Before giving an opinion or recommendation  
 20 that is critical of the Department of Health and Social Services or of a person, the child  
 21 and family ombudsman shall consult with the department or the person. The child and  
 22 family ombudsman may make a preliminary opinion or recommendation available to  
 23 the department or the person for review, but the preliminary opinion or  
 24 recommendation is confidential and may not be disclosed to the public by the  
 25 department or the person.

26 **Sec. 24.57.210. Report to department.** (a) The child and family  
 27 ombudsman shall report the opinion and recommendations of the child and family  
 28 ombudsman to the Department of Health and Social Services if the child and family  
 29 ombudsman finds, after investigation, that

- 30 (1) a matter should be further considered by the department;  
 31 (2) an administrative act of the department should be modified or

1 cancelled;

2 (3) a statute or regulation on which an administrative act of the  
3 department is based should be altered;

4 (4) reasons should be given for an administrative act of the  
5 department;

6 (5) any other action should be taken by the department;

7 (6) there are no grounds for action by the department; or

8 (7) the department's act was arbitrary or capricious, constituted an  
9 abuse of discretion, or was otherwise erroneous or not in accordance with the law.

10 (b) The child and family ombudsman may request the department to notify the  
11 child and family ombudsman, within a specified time, of any action taken on the  
12 recommendations.

13 (c) The report provided under (a) of this section is confidential and may not be  
14 disclosed to the public by the department. The child and family ombudsman may  
15 disclose the report under AS 24.57.220 only after providing notice that the  
16 investigation has been concluded

17 (1) to the department; and

18 (2) if the investigation was conducted in response to a complaint, to  
19 the complainant under AS 24.57.230.

20 **Sec. 24.57.220. Publication of recommendations.** Within a reasonable  
21 amount of time after the child and family ombudsman reports the opinion and  
22 recommendations to the Department of Health and Social Services under  
23 AS 24.57.210, the child and family ombudsman may present the opinion and  
24 recommendations to the governor, the legislature, a grand jury, the public, or any of  
25 these. The child and family ombudsman shall include with the opinion any reply  
26 made by the department.

27 **Sec. 24.57.230. Notice to the complainant.** After a reasonable time has  
28 elapsed, the child and family ombudsman shall notify the complainant of the actions  
29 taken by the child and family ombudsman and by the Department of Health and Social  
30 Services.

31 **Sec. 24.57.240. Misconduct by department personnel.** If the child and

1 family ombudsman believes there is a breach of duty or misconduct by an officer or  
 2 employee of the Department of Health and Social Services in the conduct of the  
 3 officer's or employee's official duties, the child and family ombudsman shall refer the  
 4 matter to the commissioner of health and social services, to the licensing board for the  
 5 occupation of the person who may have committed the breach of duty or misconduct,  
 6 if applicable, and, when appropriate, to a grand jury or to another appropriate official  
 7 or agency.

8 **Sec. 24.57.250. Judicial review.** A proceeding or decision of the child and  
 9 family ombudsman may be reviewed in superior court only to determine if it is  
 10 contrary to this chapter.

#### 11 **Article 4. Miscellaneous Provisions.**

12 **Sec. 24.57.800. Time for judicial review of department action.** This  
 13 chapter does not extend the time limit in which judicial review of actions by the  
 14 Department of Health and Social Services must be sought.

15 **Sec. 24.57.810. Immunity of the child and family ombudsman.** A civil  
 16 action may not be brought against the child and family ombudsman or a member of  
 17 the child and family ombudsman's staff for anything done, said, or omitted in  
 18 performing the child and family ombudsman's duties or responsibilities under this  
 19 chapter.

20 **Sec. 24.57.820. Child and family ombudsman's privilege not to testify.**  
 21 The child and family ombudsman and the staff of the child and family ombudsman  
 22 may not testify in a court regarding matters coming to their attention in the exercise or  
 23 purported exercise of their official duties except as may be necessary to enforce the  
 24 provisions of this chapter.

25 **Sec. 24.57.830. Letters to or from the child and family ombudsman.** A  
 26 letter to the child and family ombudsman from a person held in custody by an agency  
 27 shall be forwarded immediately, unopened, to the child and family ombudsman. A  
 28 letter from the child and family ombudsman to a person held in custody by an agency  
 29 shall be delivered immediately, unopened, to the person.

#### 30 **Article 5. General Provisions.**

31 **Sec. 24.57.900. Penalty.** A person who knowingly hinders the lawful actions

1 of the child and family ombudsman or the staff of the child and family ombudsman or  
 2 who knowingly refuses to comply with lawful demands of the child and family  
 3 ombudsman or the staff of the child and family ombudsman is guilty of a  
 4 misdemeanor and upon conviction is punishable by a fine of not more than \$1,000. In  
 5 this section, "knowingly" has the meaning given in AS 11.81.900.

6 **Sec. 24.57.910. Administrative Procedure Act.** The administrative acts of  
 7 the child and family ombudsman are not subject to the provisions of AS 44.62  
 8 (Administrative Procedure Act).

9 **Sec. 24.57.990. Definitions.** In this chapter,

10 (1) "administrative act" means an action, failure to act, omission,  
 11 decision, recommendation, practice, policy, or procedure, but does not include the  
 12 preparation or presentation of legislation;

13 (2) "agency" includes a department, office, institution, corporation,  
 14 authority, organization, commission, committee, council, or board of a municipality or  
 15 in the executive, legislative, or judicial branches of the state government, and a  
 16 department, office, institution, corporation, authority, organization, commission,  
 17 committee, council, or board of a municipality or of the state government independent  
 18 of the executive, legislative, and judicial branches; it also includes an officer,  
 19 employee, or member of an "agency" acting or purporting to act in the exercise of  
 20 official duties, but does not include the governor, the lieutenant governor, a member of  
 21 the legislature, a justice of the supreme court, a judge of the court of appeals, a  
 22 superior court judge, a district court judge, a magistrate, a member of a city council or  
 23 borough assembly, an elected city or borough mayor, or a member of an elected  
 24 school board;

25 (3) "record" means a document, paper, memorandum, book, letter, file,  
 26 drawing, map, plat, photo, photographic file, motion picture, film, microfilm,  
 27 microphotograph, exhibit, magnetic or paper tape, punched card, or other item  
 28 developed or received under law or in connection with the transaction of official  
 29 business, but does not include an attorney's work product, material that is confidential  
 30 as a privileged communication between an attorney and client under rules adopted by  
 31 the supreme court, or confidential oil and gas geological and geophysical data.

1 \* **Sec. 2.** AS 24.55.090 is amended by adding a new subsection to read:

2 (c) If the ombudsman receives from a person a communication that appears to  
3 relate to a matter within the jurisdiction of the child and family ombudsman, the  
4 ombudsman shall transfer that communication to the child and family ombudsman and  
5 notify the person about the transfer.

6 \* **Sec. 3.** AS 24.60.080(c) is amended to read:

7 (c) Notwithstanding (a) of this section, it is not a violation of this section for a  
8 legislator or legislative employee to accept

9 (1) hospitality, other than hospitality described in (4) of this  
10 subsection,

11 (A) with incidental transportation at the residence of a person;  
12 however, a vacation home located outside the state is not considered a  
13 residence for the purposes of this subparagraph; or

14 (B) at a social event or meal;

15 (2) discounts that are available

16 (A) generally to the public or to a large class of persons to  
17 which the person belongs; or

18 (B) when on official state business, but only if receipt of the  
19 discount benefits the state;

20 (3) food or foodstuffs indigenous to the state that are shared generally  
21 as a cultural or social norm;

22 (4) travel and hospitality primarily for the purpose of obtaining  
23 information on matters of legislative concern;

24 (5) gifts from the immediate family of the person;

25 (6) gifts that are not connected with the recipient's legislative status;

26 (7) a discount for all or part of a legislative session, including time  
27 immediately preceding or following the session, or other gift to welcome a legislator  
28 or legislative employee who is employed on the personal staff of a legislator or by a  
29 standing or special committee to the capital city or in recognition of the beginning of a  
30 legislative session if the gift or discount is available generally to all legislators and the  
31 personal staff of legislators and staff of standing and special committees; this

1 paragraph does not apply to legislative employees who are employed by the  
 2 Legislative Affairs Agency, the office of the chief clerk, the office of the senate  
 3 secretary, the legislative budget and audit committee, **the office of the child and**  
 4 **family ombudsman**, or the office of the ombudsman; or

5 (8) a gift of legal services in a matter of legislative concern and a gift  
 6 of other services related to the provision of legal services in a matter of legislative  
 7 concern.

8 \* **Sec. 4.** AS 24.60.176(b) is amended to read:

9 (b) In this section, "appointing authority" means

10 (1) the legislative council for employees of the Legislative Affairs  
 11 Agency and of the legislative council and for legislative employees not otherwise  
 12 covered under this subsection;

13 (2) the Legislative Budget and Audit Committee for the legislative  
 14 fiscal analyst and employees of the division of legislative finance, the legislative  
 15 auditor and employees of the division of legislative audit, and employees of the  
 16 Legislative Budget and Audit Committee;

17 (3) the appropriate finance committee for employees of the senate or  
 18 house finance committees;

19 (4) the appropriate rules committee for employees of

20 (A) standing committees of the legislature, other than the  
 21 finance committees;

22 (B) the senate secretary's office and the office of the chief clerk  
 23 of the house of representatives; and

24 (C) house records and senate records;

25 (5) the legislator who made the hiring decision for employees of  
 26 individual legislators; however, the legislator may request the appropriate rules  
 27 committee to act in the legislator's stead;

28 (6) the ombudsman for employees of the office of the ombudsman,  
 29 other than the ombudsman;

30 (7) **the child and family ombudsman for employees of the office of**  
 31 **the child and family ombudsman, other than the child and family ombudsman;**

1                   **(8)** the legislature for the ombudsman **and the child and family**  
 2                   **ombudsman.**

3 \* **Sec. 5.** AS 24.60.250(c) is amended to read:

4                   (c) In addition to the sanctions described in AS 24.60.260, if the Alaska Public  
 5                   Offices Commission finds that a legislative director has failed or refused to file a  
 6                   report under AS 24.60.200 by a deadline established in AS 24.60.210, it shall notify  
 7                   the Alaska Legislative Council or the Legislative Budget and Audit Committee, as  
 8                   appropriate. For the ombudsman **and the child and family ombudsman,** the Alaska  
 9                   Legislative Council shall be notified.

10 \* **Sec. 6.** AS 24.60.990(a)(9) is amended to read:

11                   (9) "legislative director" means the director of the legislative finance  
 12                   division, the legislative auditor, the director of the legislative research agency, the  
 13                   ombudsman, **the child and family ombudsman,** the victims' advocate, the executive  
 14                   director of the Legislative Affairs Agency, and the directors of the divisions within the  
 15                   Legislative Affairs Agency;

16 \* **Sec. 7.** AS 33.30.231(a) is amended to read:

17                   (a) A prisoner shall have reasonable access to a telephone except when access  
 18                   is suspended as punishment for conviction of a rule infraction or pending a hearing for  
 19                   a rule infraction involving telephone abuse. A suspension under this subsection must  
 20                   be reasonable in length and may not prohibit telephone communication between the  
 21                   prisoner and an attorney, [OR] between the prisoner and the office of the ombudsman,  
 22                   **or between the prisoner and the office of the child and family ombudsman.**

23 \* **Sec. 8.** AS 33.30.231(c) is amended to read:

24                   (c) Notwithstanding AS 42.20.300 and 42.20.310, in order to preserve the  
 25                   security and orderly administration of the correctional facility and to protect the  
 26                   public, the commissioner shall monitor or record the telephone conversations of  
 27                   prisoners. The commissioner shall post a warning by each telephone informing  
 28                   prisoners that calls may be monitored or recorded. The monitoring or recording may  
 29                   be conducted on all calls or selectively or in some other limited manner as determined  
 30                   by the commissioner to be appropriate. A recording of a telephone call made under  
 31                   this subsection shall be kept confidential, and access to the recording and its contents

1 is limited to persons who are acting within the scope of their official duties and whose  
 2 access to specific recordings has been authorized by the facility superintendent. A  
 3 telephone call between an attorney and a prisoner, [OR] between the office of the  
 4 ombudsman and a prisoner, **or between the office of the child and family**  
 5 **ombudsman and a prisoner** may not be monitored or recorded except when  
 6 authorized by a court.

7 \* **Sec. 9.** AS 39.27.022(d) is amended to read:

8 (d) This section applies to employees of the legislature only if the committee  
 9 responsible for adopting employment policies concerning the employee adopts a  
 10 written policy that the section applies. This section applies to the employees of the  
 11 office of the ombudsman only if the ombudsman adopts a policy that the section  
 12 applies. **This section applies to the employees of the office of the child and family**  
 13 **ombudsman only if the child and family ombudsman adopts a policy that the**  
 14 **section applies.** This section applies to the employees of the office of victims' rights  
 15 only if the victims' advocate adopts a policy that the section applies.

16 \* **Sec. 10.** AS 39.35.385(f) is amended to read:

17 (f) Subject to AS 39.35.450, an employee is eligible for a normal retirement  
 18 benefit at age 60 or an early retirement benefit at age 55 if the employee was first  
 19 hired as a legislative employee before May 30, 1987, and has at least 60 days of  
 20 credited service as an employee of the legislature, other than as an employee of the  
 21 Office of the Ombudsman, **the office of the child and family ombudsman,** or the  
 22 office of victims' rights, during each of five legislative sessions. An employee who  
 23 was first hired as a legislative employee on or after May 30, 1987, and is otherwise  
 24 eligible under this subsection must have at least 80 days of credited service during  
 25 each of five legislative sessions to receive benefits under this subsection.

26 \* **Sec. 11.** AS 39.90.140(3) is amended to read:

27 (3) "matter of public concern" means

- 28 (A) a violation of a state, federal, or municipal law, regulation,  
 29 or ordinance;
- 30 (B) a danger to public health or safety;
- 31 (C) gross mismanagement, a substantial waste of funds, or a

1 clear abuse of authority; [OR]

2 (D) a matter accepted for investigation by the office of the  
3 ombudsman under AS 24.55.100 or 24.55.320; or

4 **(E) a matter accepted for investigation by the office of the**  
5 **child and family ombudsman under AS 24.57;**

6 \* **Sec. 12.** AS 44.62.040(c) is amended to read:

7 (c) Before submitting the regulations and orders of repeal to the lieutenant  
8 governor under (a) of this section, every state agency that by statute possesses  
9 regulation making authority, except boards and commissions, the office of victims'  
10 rights, **the office of the child and family ombudsman,** and the office of the  
11 ombudsman, shall submit to the governor for review a copy of every regulation or  
12 order of repeal adopted by the agency, except regulations and orders of repeal  
13 identified in (a)(1) - (2) of this section. The governor may review the regulations and  
14 orders of repeal received under this subsection. The governor may return the  
15 regulations and orders of repeal to the adopting agency before they are submitted to  
16 the lieutenant governor for filing under (a) of this section (1) if they are inconsistent  
17 with the faithful execution of the laws, or (2) to enable the adopting agency to respond  
18 to specific issues raised by the Administrative Regulation Review Committee. The  
19 governor may not delegate the governor's review authority under this subsection to a  
20 person other than the lieutenant governor.

21 \* **Sec. 13.** AS 44.62.215 is amended to read:

22 **Sec. 44.62.215. Record of public comment.** In the drafting, review, or other  
23 preparation of a proposed regulation, amendment, or order of repeal, an agency, other  
24 than a board or commission, the office of victims' rights, **the office of the child and**  
25 **family ombudsman,** and the office of the ombudsman, shall keep a record of its use  
26 or rejection of factual or other substantive information that is submitted in writing as  
27 public comment and that is relevant to the accuracy, coverage, or other aspect of the  
28 proposed regulatory action.

29 \* **Sec. 14.** AS 44.66.050(a) is amended to read:

30 (a) Before the termination, dissolution, continuation, or reestablishment of a  
31 board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program

1 under AS 44.66.020 and 44.66.030, a committee of reference of each house, which  
 2 shall be the standing committee of legislative jurisdiction as provided in the Uniform  
 3 Rules of the Legislature, shall hold one or more hearings to receive testimony from the  
 4 public, the commissioner of the department having administrative responsibility for  
 5 each named board, commission, or agency program, and the members of the board or  
 6 commission involved. The hearings may be joint hearings. The committee shall also  
 7 consider the proposed budget of the board, commission, or agency program, prepared  
 8 in accordance with AS 37.07.050(f), and the performance audit of the activities of the  
 9 board, commission, or agency program, prepared by the legislative audit division as  
 10 prescribed in AS 24.20.271(1). The committee may consider any other report of the  
 11 activities of the board, commission, or program, including but not limited to annual  
 12 reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or  
 13 general report of the manner of conduct of activities of the board, commission, or  
 14 agency program prepared by the office of the ombudsman **or the office of the child**  
 15 **and family ombudsman.**

16 \* **Sec. 15.** AS 44.66.050(c) is amended to read:

17 (c) A determination as to whether a board or commission or agency program  
 18 has demonstrated a public need for its continued existence must take into  
 19 consideration the following factors:

20 (1) the extent to which the board, commission, or program has  
 21 operated in the public interest;

22 (2) the extent to which the operation of the board, commission, or  
 23 agency program has been impeded or enhanced by existing statutes, procedures, and  
 24 practices that it has adopted, and any other matter, including budgetary, resource, and  
 25 personnel matters;

26 (3) the extent to which the board, commission, or agency has  
 27 recommended statutory changes that are generally of benefit to the public interest;

28 (4) the extent to which the board, commission, or agency has  
 29 encouraged interested persons to report to it concerning the effect of its regulations  
 30 and decisions on the effectiveness of service, economy of service, and availability of  
 31 service that it has provided;

1 (5) the extent to which the board, commission, or agency has  
2 encouraged public participation in the making of its regulations and decisions;

3 (6) the efficiency with which public inquiries or complaints regarding  
4 the activities of the board, commission, or agency filed with it, with the department to  
5 which a board or commission is administratively assigned, or with the office of  
6 victims' rights, **the office of the child and family ombudsman**, or the office of the  
7 ombudsman have been processed and resolved;

8 (7) the extent to which a board or commission that regulates entry into  
9 an occupation or profession has presented qualified applicants to serve the public;

10 (8) the extent to which state personnel practices, including affirmative  
11 action requirements, have been complied with by the board, commission, or agency to  
12 its own activities and the area of activity or interest; and

13 (9) the extent to which statutory, regulatory, budgeting, or other  
14 changes are necessary to enable the agency, board, or commission to better serve the  
15 interests of the public and to comply with the factors enumerated in this subsection.

16 \* **Sec. 16.** AS 44.99.240(2) is amended to read:

17 (2) "state agency" means

18 (A) a department, institution, board, commission, division,  
19 authority, public corporation, or other administrative unit of the executive  
20 branch, including the University of Alaska and the Alaska Railroad  
21 Corporation;

22 (B) a committee, division, or administrative unit of the  
23 legislative branch, including the Alaska Legislative Council, the leadership of  
24 each house, the office of victims' rights, **the office of the child and family**  
25 **ombudsman**, and the office of the ombudsman;

26 (C) an administrative unit of the judicial branch, including the  
27 Alaska Judicial Council and the Commission on Judicial Conduct.

28 \* **Sec. 17.** AS 47.10.092(a) is amended to read:

29 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of  
30 a child subject to a proceeding under AS 47.10.005 - 47.10.142 may disclose  
31 confidential or privileged information about the child or the child's family, including

1 information that has been lawfully obtained from agency or court files, to the  
 2 governor, the lieutenant governor, a legislator, the ombudsman appointed under  
 3 AS 24.55, the child and family ombudsman appointed under AS 24.57, the  
 4 attorney general, and the commissioners of health and social services, administration,  
 5 or public safety, or an employee of these persons, for review or use in their official  
 6 capacities. The department shall disclose additional confidential or privileged  
 7 information and make copies of documents available for inspection about the child or  
 8 the child's family to these state officials or employees for review or use in their official  
 9 capacities upon request of the official or employee and submission of satisfactory  
 10 evidence that a parent or legal guardian of the child has requested the state official's  
 11 assistance in the case as part of the official's duties. A person to whom disclosure is  
 12 made under this section may not disclose confidential or privileged information about  
 13 the child or the child's family to a person not authorized to receive it.

14 \* **Sec. 18.** AS 47.12.320(a) is amended to read:

15 (a) Notwithstanding AS 47.12.300 and 47.12.310,

16 (1) a parent or legal guardian of a minor subject to a proceeding under  
 17 this chapter may disclose confidential or privileged information about the minor,  
 18 including information that has been lawfully obtained from agency or court files, to  
 19 the governor, the lieutenant governor, a legislator, the ombudsman appointed under  
 20 AS 24.55, the child and family ombudsman appointed under AS 24.57, the  
 21 attorney general, and the commissioners of health and social services, administration,  
 22 or public safety, or an employee of these persons, for review or use in their official  
 23 capacities;

24 (2) the department may disclose confidential or privileged information  
 25 about the minor and make available for inspection documents about the minor to the  
 26 state officials or employees identified in (1) of this subsection for review or use in  
 27 their official capacities; and

28 (3) a person to whom disclosure is made under (1) or (2) of this  
 29 subsection may not disclose confidential or privileged information about the minor to  
 30 a person not authorized to receive it.

31 \* **Sec. 19.** AS 47.17.040(b) is amended to read:

1 (b) Investigation reports and reports of harm filed under this chapter are  
 2 considered confidential and are not subject to public inspection and copying under  
 3 AS 40.25.110 and 40.25.120. However, in accordance with department regulations,  
 4 investigation reports may be used by appropriate governmental agencies with child-  
 5 protection functions, inside and outside the state, in connection with investigations or  
 6 judicial proceedings involving child abuse, neglect, or custody. **In accordance with**  
 7 **department regulations, investigation reports and reports of harm about a**  
 8 **particular child, including the identity of the person or persons who reported the**  
 9 **harm, shall also be disclosed to the child and family ombudsman for use in**  
 10 **performing the official functions of the office of the child and family ombudsman**  
 11 **when the child and family ombudsman requests a copy of the reports about the**  
 12 **particular child.** A person, not acting in accordance with department regulations,  
 13 who with criminal negligence makes public information contained in confidential  
 14 reports is guilty of a class B misdemeanor.

15 \* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to  
 16 read:

17 TRANSITIONAL PROVISIONS. (a) A complaint received under AS 24.55 before  
 18 the effective date of secs. 1 - 19 of this Act shall remain within the jurisdiction of the  
 19 ombudsman under AS 24.55 until action on the complaint is completed.

20 (b) Notwithstanding the effective date of sec. 1 of this Act,

21 (1) the ombudsman selection committee shall immediately begin the process  
 22 to appoint a child and family ombudsman, and the appointment becomes effective under the  
 23 provisions of AS 24.57.020, enacted by sec. 1 of this Act;

24 (2) after the appointment of the child and family ombudsman becomes  
 25 effective, the child and family ombudsman shall immediately begin to hire staff and adopt  
 26 rules governing the office.

27 \* **Sec. 21.** Section 20 of this Act takes effect immediately under AS 01.10.070(c).

28 \* **Sec. 22.** Except as provided in sec. 21 of this Act, this Act takes effect July 1, 2003.