



LAWS OF ALASKA

2004

Source
CSSB 288(JUD)

Chapter No.

AN ACT

Relating to temporary custody hearings, and to certain determinations concerning placement of a child in child-in-need-of-aid proceedings; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to temporary custody hearings, and to certain determinations concerning placement
2 of a child in child-in-need-of-aid proceedings; and providing for an effective date.

3 _____

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

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

1 as otherwise provided in this subsection. At the first hearing under this
2 subsection, regardless of whether a continuance is granted, the court shall make a
3 preliminary determination of whether continued placement in the home of the
4 child's parent or guardian would be contrary to the welfare of the child. If a
5 court determines that continued placement in the home of the child's parent or
6 guardian would not be contrary to the welfare of the child, the court shall return
7 the authority to place the child to the child's parent or guardian pending a
8 temporary custody hearing under (e) of this section [. WHEN THE
9 TEMPORARY CUSTODY HEARING IS HELD, THE COURT SHALL
10 DETERMINE WHETHER PROBABLE CAUSE EXISTS FOR BELIEVING THE
11 CHILD TO BE A CHILD IN NEED OF AID, AS DEFINED IN AS 47.10.990. THE
12 COURT SHALL INFORM THE CHILD, AND THE CHILD'S PARENTS OR
13 GUARDIAN IF THEY CAN BE FOUND, OF THE REASONS GIVEN AS
14 CONSTITUTING PROBABLE CAUSE AND THE REASONS GIVEN AS
15 AUTHORIZING THE CHILD'S TEMPORARY PLACEMENT].

16 * **Sec. 2.** AS 47.10.142(e) is amended to read:

17 (e) When the temporary custody hearing is held, the court shall
18 determine whether probable cause exists for believing the child to be a child in
19 need of aid, as defined in AS 47.10.990. If the court finds that probable cause exists,
20 it shall order the child [MINOR] committed to the department for temporary
21 placement, or order the child [MINOR] returned to the custody of the child's
22 [MINOR'S] parents or guardian, subject to the department's supervision of the child's
23 [MINOR'S] care and treatment. The court shall inform the child, and the child's
24 parents or guardian if they can be found, of the reasons for finding probable
25 cause, authorizing the child's temporary placement, and, if applicable, finding
26 that continued placement in the home of the child's parents or guardian would be
27 contrary to the welfare of the child. If the court finds no probable cause, it shall
28 order the child [MINOR] returned to the custody of the child's [MINOR'S] parents or
29 guardian.

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

1 APPLICABILITY. The changes made in secs. 1 and 2 of the Act apply to emergency
2 custody and temporary placement hearings under AS 47.10 conducted on or after the effective
3 date of this Act.

4 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).