

HOUSE BILL NO. 17

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES COGHILL, Whitaker, Holm, Gatto, Dahlstrom, Harris

Introduced: 1/21/03

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the right to demand a jury trial in certain cases involving**
2 **termination of parental rights; amending Rules 18(e) and 18(g), Alaska Child in Need of**
3 **Aid Rules of Procedure."**

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

5 * **Section 1.** AS 47.10 is amended by adding a new section to read:

6 **Sec. 47.10.007. Right to demand jury trial in certain cases.** A party has the
7 right to demand a jury trial for a hearing under this chapter on a petition to terminate
8 parental rights. If a hearing to adjudicate whether a child is a child in need of aid is
9 consolidated with a termination hearing, the right to trial by jury under this section
10 applies only to whether parental rights should be terminated after the court has
11 adjudicated that the child is a child in need of aid. In this section, "party" has the
12 meaning given in Rule 2, Alaska Child in Need of Aid Rules of Procedure.

13 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

1 DIRECT COURT RULE AMENDMENT. Rule 18(e), Alaska Child in Need
2 of Aid Rules of Procedure, is amended to read:

3 (e) **Trial.** A trial on the petition to terminate parental rights shall be held
4 within six months after the date on which the petition to terminate parental rights is
5 filed, unless the court finds that good cause is shown for a continuance. When
6 determining whether to grant a continuance for good cause, the court shall take into
7 consideration the age of the child and the potential adverse effect that the delay may
8 have on the child. The court shall make written findings when granting a continuance.
9 **A party has the right to demand a jury trial for a hearing on a petition to**
10 **terminate parental rights. Demand for and waiver of this right are governed by**
11 **Civil Rules 38 and 39.**

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

14 DIRECT COURT RULE AMENDMENT. Rule 18(g), Alaska Child in Need
15 of Aid Rules of Procedure, is amended to read:

16 (g) **Judgment.** The court shall make findings of fact **for matters tried to the**
17 **court** and **shall** enter an order within 90 days after the last day of trial on the petition
18 to terminate parental rights. The court shall commit the child to the custody of the
19 Department if parental rights are terminated.

20 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 APPLICABILITY. Sections 1 and 2 of this Act apply to trials on petitions to
23 terminate parental rights that are filed on or after the effective date of this Act.

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

26 CONDITIONAL EFFECT. The sentence in sec. 2 of this Act that provides that Rules
27 38 and 39, Alaska Rules of Civil Procedure, govern the demand for and waiver of the right to
28 a jury trial for a hearing on a petition to terminate parental rights takes effect only if sec. 2 of
29 this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
30 Constitution of the State of Alaska.

31 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 VOTE REQUIREMENT FOR CERTAIN PROVISIONS. Except as provided in sec.
3 5 of this Act, the amendments in secs. 2 and 3 of this Act take effect as provided by law upon
4 a majority vote of each house because the first new sentence in sec. 2 of this Act establishes a
5 substantive right and the amendment made in sec. 3 of this Act is technical in nature and
6 necessary only because a substantive right to a jury trial is established.