

HOUSE BILL NO. 197

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE CISSNA

Introduced: 3/17/03

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to intensive family preservation services and intensive family**
2 **reunification services; and providing for an effective date."**

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

4 *** Section 1.** AS 47.10.080(*l*) is amended to read:

5 (*l*) Within 12 months after the date a child enters foster care as calculated
6 under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and
7 permanent plan developed in the hearing are governed by the following provisions:

8 (1) the persons entitled to be heard under AS 47.10.070 or under (f) of
9 this section are also entitled to be heard at the hearing held under this subsection;

10 (2) when establishing the permanent plan for the child, the court shall
11 make appropriate written findings, including findings related to whether

12 (A) and when the child should be returned to the parent or
13 guardian;

14 (B) the child should be placed for adoption or legal

1 guardianship and whether a petition for termination of parental rights should be
2 filed by the department; and

3 (C) the child should be placed in another planned, permanent
4 living arrangement and what steps are necessary to achieve the new
5 arrangement;

6 (3) if the court is unable to make a finding required under (2) of this
7 subsection, the court shall hold another hearing within a reasonable period of time;

8 (4) in addition to the findings required by (2) of this subsection, the
9 court shall also make appropriate written findings related to

10 (A) whether the department has made the reasonable efforts
11 required under AS 47.10.086 to offer appropriate family support services,
12 **intensive family preservation services, and intensive family reunification**
13 **services** to remedy the parent's or guardian's conduct or conditions in the home
14 that made the child a child in need of aid under this chapter;

15 (B) whether the parent or guardian has made substantial
16 progress to remedy the parent's or guardian's conduct or conditions in the home
17 that made the child a child in need of aid under this chapter; and

18 (C) if the permanent plan is for the child to remain in **out-of-**
19 **home care** [OUT-OF-HOME-CARE], whether the child's out-of-home
20 placement continues to be appropriate and in the best interests of the child;

21 (5) the court shall hold a hearing to review the permanent plan at least
22 annually until successful implementation of the plan; if the plan approved by the court
23 changes after the hearing, the department shall promptly apply to the court for another
24 permanency hearing, and the court shall conduct the hearing within 30 days after
25 application by the department.

26 * **Sec. 2.** AS 47.10.086(a) is amended to read:

27 (a) Except as provided in (b) and (c) of this section, the department shall make
28 timely, reasonable efforts to provide family support services to the child and to the
29 parents or guardian of the child that are designed to prevent out-of-home placement of
30 the child or to enable the safe return of the child to the family home, when appropriate,
31 if the child is in an out-of-home placement. **Within appropriations available for the**

1 **purpose, the department shall also offer intensive family preservation services, or**
 2 **intensive family reunification services, or both, when those services are available**
 3 **and, if the child is in the home, the child's safety in the home can be maintained**
 4 **during the time the services are provided.** The department's duty to make
 5 reasonable efforts under this subsection **to provide family support services** includes
 6 the duty to

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

10 (2) actively offer the parent or guardian, and refer the parent or
 11 guardian to, the **family support** services identified under (1) of this subsection; the
 12 department shall refer the parent or guardian to community-based family support
 13 services whenever community-based services are available and desired by the parent
 14 or guardian; and

15 (3) document the department's actions that are taken under [(1) AND
 16 (2) OF] this subsection, **including whether intensive family preservation services**
 17 **or intensive family reunification services, or both, were appropriate, offered,**
 18 **used, or available.**

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

20 (b) If the court makes a finding at a hearing conducted under AS 47.10.080(I)
 21 that a parent or guardian has not sufficiently remedied the parent's or guardian's
 22 conduct or the conditions in the home despite reasonable efforts made by the
 23 department in accordance with this section, the court may conclude that continuation
 24 of reasonable efforts of the type described in (a) of this section are not in the best
 25 interests of the child. The department shall then make reasonable efforts to place the
 26 child in a timely manner in accordance with the permanent plan and to complete
 27 whatever steps are necessary to finalize the permanent placement of the child. **If the**
 28 **court concludes that continuation of reasonable efforts of the type described in**
 29 **(a) of this section are not in the best interests of the child and intensive family**
 30 **preservation services or intensive family reunification services were not provided**
 31 **in the case, the court shall enumerate in the record the reasons the services were**

1 **not provided.**

2 * **Sec. 4.** AS 47.10.086(c) is amended to read:

3 (c) The court may determine that reasonable efforts of the type described in
4 (a) of this section are not required if the court has found by a preponderance of the
5 evidence that

6 (1) the parent or guardian has subjected the child to circumstances that
7 pose a substantial risk to the child's health or safety; these circumstances include
8 abandonment, sexual abuse, torture, chronic mental injury, or chronic physical harm;

9 (2) the parent or guardian has

10 (A) committed homicide under AS 11.41.100 - 11.41.130 of a
11 parent of the child or of a child;

12 (B) aided or abetted, attempted, conspired, or solicited under
13 AS 11.16 or AS 11.31 to commit a homicide described in (A) of this
14 paragraph;

15 (C) committed an assault that is a felony under AS 11.41.200 -
16 11.41.220 and results in serious physical injury to a child; or

17 (D) committed the conduct described in (A) - (C) of this
18 paragraph that violated a law or ordinance of another jurisdiction having
19 elements similar to an offense described in (A) - (C) of this paragraph;

20 (3) the parent or guardian has, during the 12 months preceding the
21 permanency hearing, failed to comply with a court order to participate in family
22 support services;

23 (4) the department has conducted a reasonably diligent search over a
24 time period of at least three months for an unidentified or absent parent and has failed
25 to identify and locate the parent;

26 (5) the parent or guardian is the sole caregiver of the child and the
27 parent or guardian has a mental illness or mental deficiency of such nature and
28 duration that, according to the statement of a psychologist or physician, the parent or
29 guardian will be incapable of caring for the child without placing the child at
30 substantial risk of physical or mental injury even if the department were to provide
31 family support services to the parent or guardian for 12 months;

1 (6) the parent or guardian has previously been convicted of a crime
 2 involving a child in this state or in another jurisdiction and, after the conviction, the
 3 child was returned to the custody of the parent or guardian and later removed because
 4 of an additional substantiated report of physical or sexual abuse by the parent or
 5 guardian;

6 (7) a child has suffered substantial physical harm as the result of
 7 abusive or neglectful conduct by the parent or guardian or by a person known by the
 8 parent or guardian and the parent or guardian knew or reasonably should have known
 9 that the person was abusing the child;

10 (8) the parental rights of the parent have been terminated with respect
 11 to another child because of child abuse or neglect, the parent has not remedied the
 12 conditions or conduct that led to the termination of parental rights, and the parent has
 13 demonstrated an inability to protect the child from substantial harm or the risk of
 14 substantial harm;

15 (9) the child has been removed from the child's home on at least two
 16 previous occasions, family support services, **including intensive family preservation**
 17 **services or intensive family reunification services, or both,** were offered or
 18 provided to the parent or guardian at those times, and the parent or guardian has
 19 demonstrated an inability to protect the child from substantial harm or the risk of
 20 substantial harm; or

21 (10) the parent or guardian is incarcerated and is unavailable to care
 22 for the child during a significant period of the child's minority, considering the child's
 23 age and need for care by an adult.

24 * **Sec. 5.** AS 47.10.088(e) is amended to read:

25 (e) If one or more of the conditions listed in (d) of this section are present, the
 26 department shall petition for termination of the parental rights to a child unless the
 27 department

28 (1) has documented a compelling reason for determining that filing the
 29 petition would not be in the best interests of the child; a compelling reason under this
 30 paragraph may include care by a relative for the child; or

31 (2) is required to make reasonable efforts under AS 47.10.086 and the

1 department has not provided to the parent, consistent with the time period in the
 2 department's case plan, the family support services, **including intensive family**
 3 **preservation services, intensive family reunification services, or both,** that the
 4 department has determined are necessary for the safe return of the child to the home.

5 * **Sec. 6.** AS 47.10.142(b) is amended to read:

6 (b) The department shall offer available counseling services **and either**
 7 **intensive family preservation services or intensive family reunification services,**
 8 **or both,** to the person having legal custody of a minor described in AS 47.10.141 and
 9 to the members of the minor's household if it determines that counseling services,
 10 **intensive family preservation services, or intensive family reunification services**
 11 would be appropriate in the situation. If, after assessing the situation, offering
 12 available [COUNSELING] services to the legal custodian and the minor's household,
 13 and furnishing appropriate social services to the minor, the department considers it
 14 necessary, the department may take emergency custody of the minor.

15 * **Sec. 7.** AS 47.10 is amended by adding new sections to read:

16 **Article 3A. Intensive Family Preservation Services**
 17 **and Intensive Family Reunification Services.**

18 **Sec. 47.10.500. Statewide program.** Subject to AS 47.10.510 and 47.10.520,
 19 the department shall, within appropriations available for the purpose, provide intensive
 20 family preservation services and intensive family reunification services on a statewide
 21 basis. The department may provide the services directly or through contracts with
 22 private nonprofit providers.

23 **Sec. 47.10.510. Effectiveness required.** (a) The department shall develop
 24 measurable standards that must be met by a provider before a contract may be
 25 awarded to the provider under AS 47.10.500.

26 (b) The department may not renew a contract awarded to a provider under
 27 AS 47.10.500 unless the provider can demonstrate that provision of the applicable
 28 services prevented or terminated out-of-home placement in at least 70 percent of the
 29 cases served by the provider and that out-of-home placement was avoided for a period
 30 of at least six months after termination of the applicable services.

31 (c) The department may not continue direct provision of intensive family

1 preservation services or intensive family reunification services unless the department
 2 can demonstrate that provision of the services prevented or terminated out-of-home
 3 placement in at least 70 percent of the cases served and that out-of-home placement
 4 was avoided for a period of at least six months after termination of the services.

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) family conflict.

17 (b) The department may provide intensive family reunification services to a
 18 child, the child's family, and other appropriate nonfamily members only if

19 (1) the conditions of (a)(1) and (2) of this section are met; and

20 (2) the department determines that the family is not expected to reunify
 21 within six months, absent the intensive family reunification services.

22 (c) The department need not provide intensive family preservation services or
 23 intensive family reunification services to an otherwise eligible family if

24 (1) services are not available in the community in which the family
 25 resides;

26 (2) services cannot be provided because the program is filled to
 27 capacity;

28 (3) the family refuses the services;

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

31 (5) the safety of a child, a family member, or a person providing the

1 services would be unduly threatened.

2 **Sec. 47.10.530. Assessment tool.** The department shall, by regulation,
3 establish an assessment tool that the department shall use to screen families for their
4 eligibility for services under AS 47.10.520(a) or (b), or both.

5 **Sec. 47.10.540. Training of employees.** (a) The department shall provide at
6 least 40 hours of initial training to employees of the department who will be making
7 eligibility determinations under AS 47.10.520 or who will be providing intensive
8 family preservation services or intensive family reunification services.

9 (b) In addition to the training required under (a) of this section, the department
10 shall provide annual training.

11 (c) Training provided under this section shall include material from a
12 recognized expert on intensive family preservation services, intensive family
13 reunification services, or both.

14 **Sec. 47.10.550. Solicitation of funding sources.** The department shall solicit
15 federal and private resources that may be available to fund intensive family
16 preservation services and intensive family reunification services.

17 * **Sec. 8.** AS 47.10.990 is amended by adding new paragraphs to read:

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

21 (A) are designed to address problems creating the need for out-
22 of-home placement by assisting the family to improve parental and household
23 management competence and by solving practical problems that contribute to
24 family stress so as to improve parental performance and enhance functioning
25 of the family unit; and

26 (B) have the following characteristics:

27 (i) are persistently offered but provided at the family's
28 option;

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

30 (iii) are available 24 hours a day and seven days a
31 week;

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

3 (v) are provided for a maximum of 40 days by a single
4 case worker whose caseload is not more than two families at any one
5 time; and

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

11 (29) "intensive family reunification services" means activities designed
12 to provide time-limited foster care services to prevent or remedy conduct or conditions
13 in the home that made the child a child in need of aid when

14 (A) the child cannot safely remain in the home;

15 (B) the child needs temporary foster care while services are
16 provided to reunite the family; and

17 (C) the family is not expected to reunify within six months
18 without the services, as determined by the department.

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

20 (d) Before the department or a local government health or social services
21 agency may seek the termination of parental rights under AS 47.10, it shall offer
22 protective social services and pursue all other reasonable means of protecting the
23 child. **The department or agency shall also consider the eligibility of the child**
24 **and family for intensive family preservation services or intensive family**
25 **reunification services, or both, under AS 47.10.500 - 47.10.550.**

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

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

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

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

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

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

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

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

13 (b) By November 30, 2004, the Department of Health and Social Services shall
14 submit a report to the governor describing the study required under this section and including
15 the department's conclusions and recommendations that are based on the study. The
16 department shall notify the legislature that the report is available.

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

19 * **Sec. 11.** This Act takes effect July 1, 2003.