

**SENATE BILL NO. 288**

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

**BY SENATOR GREEN**

**Introduced: 2/2/04**

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

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to certain determinations concerning placement of a child in**  
2 **emergency custody and temporary placement hearings in child-in-need-of-aid**  
3 **proceedings; and providing for an effective date."**

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

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

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

1 **this subsection, regardless of whether a continuance is granted, the court shall**  
 2 **determine whether continued placement in the home of the child's parents or**  
 3 **guardian would be contrary to the welfare of the child** [WHEN THE  
 4 TEMPORARY CUSTODY HEARING IS HELD, THE COURT SHALL  
 5 DETERMINE WHETHER PROBABLE CAUSE EXISTS FOR BELIEVING THE  
 6 CHILD TO BE A CHILD IN NEED OF AID, AS DEFINED IN AS 47.10.990. THE  
 7 COURT SHALL INFORM THE CHILD, AND THE CHILD'S PARENTS OR  
 8 GUARDIAN IF THEY CAN BE FOUND, OF THE REASONS GIVEN AS  
 9 CONSTITUTING PROBABLE CAUSE AND THE REASONS GIVEN AS  
 10 AUTHORIZING THE CHILD'S TEMPORARY PLACEMENT].

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

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

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

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

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