

HOUSE BILL NO. 17

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES ROKEBERG AND GATTO, Lynn, Samuels, Chenault, Anderson, Ramras

Introduced: 1/10/05

Referred: Health, Education and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to children in need of aid; authorizing additional family members to**
2 **consent to disclosure of confidential or privileged information about children and**
3 **families involved with children's services within the Department of Health and Social**
4 **Services to officials for review or use in official capacities; relating to reports of harm;**
5 **and relating to adoptions and foster care."**

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

7 *** Section 1.** AS 47.10.080(p) is amended to read:

8 (p) If a child is removed from the parental home, the department shall provide
9 reasonable visitation between the child and the child's parents, guardian, and family.
10 When determining what constitutes reasonable visitation with a family member, the
11 department shall consider the nature and quality of the relationship that existed
12 between the child and the family member before the child was committed to the
13 custody of the department. The court may require the department to file a visitation

1 plan with the court. The department may deny visitation to the parents, guardian, or
 2 family members if there is clear and convincing evidence that visits are not in the
 3 child's best interests. **If the department denies visitation to a parent or family**
 4 **member of a child, the department shall inform the parent or family member of a**
 5 **reason for the denial and of the parent's or family member's right to request a**
 6 **review hearing.** A parent, **family member,** or guardian who is denied visitation may
 7 request a review hearing.

8 * **Sec. 2.** AS 47.10.088(i) is amended to read:

9 (i) The department shall concurrently identify, recruit, process, and approve a
 10 qualified person or family for an adoption whenever a petition to terminate a parent's
 11 rights to a child is filed. **The department may not approve an adoption by a**
 12 **person or family who is not related to the child by blood if a relative of the child**
 13 **requests that the department approve the relative for the adoption unless the**
 14 **adoption by the child's relative is not in the child's best interest, is prohibited**
 15 **under (l) of this section, or is otherwise contrary to federal or state law.** If the
 16 court issues an order to terminate under (j) of this section, the department shall report
 17 within 30 days on the efforts being made to recruit a permanent placement for the
 18 child if a permanent placement was not approved at the time of the trial under (j) of
 19 this section. The report must document recruitment efforts made for the child.

20 * **Sec. 3.** AS 47.10.088 is amended by adding new subsections to read:

21 (l) The department may not approve an adoption by a person related to the
 22 child by blood if the department

23 (1) makes a determination, supported by clear and convincing
 24 evidence, that adoption of the child by the relative will result in physical or mental
 25 injury to the child; in making that determination, poverty, including inadequate or
 26 crowded housing, on the part of the person related to the child by blood is not
 27 considered prima facie evidence that physical or mental injury to the child will occur;

28 (2) determines that a member of the relative's household who is 12
 29 years of age or older was the perpetrator in a substantiated report of abuse under
 30 AS 47.17; or

31 (3) determines that a member of the relative's household who is 12

1 years of age or older is under arrest for, is charged with, has been convicted of, or has
 2 been found not guilty by reason of insanity of, a serious offense; notwithstanding this
 3 paragraph, the department may approve an adoption by the relative if the relative
 4 demonstrates to the satisfaction of the department that conduct described in this
 5 paragraph occurred at least five years before the intended adoption and the conduct

6 (A) did not involve a victim who was under 18 years of age at
 7 the time of the conduct;

8 (B) was not a crime of domestic violence as defined in
 9 AS 18.66.990; and

10 (C) was not a violent crime under AS 11.41.100 - 11.41.455 or
 11 a law or ordinance of another jurisdiction having similar elements.

12 (m) For the purpose of determining whether the home of a relative meets the
 13 requirements for adoption of the child, the department shall conduct a criminal
 14 background check from state and national criminal justice information available under
 15 AS 12.62. The department may conduct a fingerprint background check on any
 16 member of the relative's household who is 12 years of age or older when the relative
 17 requests adoption of the child. For the purposes of obtaining criminal justice
 18 information under this subsection, the department is a criminal justice agency
 19 conducting a criminal justice activity under AS 12.62.

20 (n) A person related to a child by blood who is denied a request for an
 21 adoption under (i) of this section may request a review hearing by the court. If the
 22 department denies a request by a person related to a child by blood to adopt a child
 23 under (i) of this section, the department shall inform the relative of the reason for the
 24 denial and of the relative's right to request a review hearing.

25 * **Sec. 4.** AS 47.10.092(a) is amended to read:

26 (a) Notwithstanding AS 47.10.090 and 47.10.093, **an adult family member**
 27 [A PARENT] or legal guardian of a child subject to a proceeding under AS 47.10.005
 28 - 47.10.142 may disclose confidential or privileged information about the child or the
 29 child's family, including information that has been lawfully obtained from agency or
 30 court files, to the governor, the lieutenant governor, a legislator, the ombudsman
 31 appointed under AS 24.55, the attorney general, and the **commissioner**

1 [COMMISSIONERS] of health and social services, administration, or public safety, or
 2 an employee of these persons, for review or use in their official capacities. The
 3 department shall disclose additional confidential or privileged information and make
 4 copies of documents available for inspection about the child or the child's family to
 5 these state officials or employees for review or use in their official capacities upon
 6 request of the official or employee and submission of satisfactory evidence that **an**
 7 **adult family member** [A PARENT] or legal guardian of the child has requested the
 8 state official's assistance in the case as part of the official's duties. A person to whom
 9 disclosure is made under this section may not disclose confidential or privileged
 10 information about the child or the child's family to a person not authorized to receive
 11 it.

12 * **Sec. 5.** AS 47.10.092 is amended by adding new subsections to read:

13 (d) If, in response to a requirement of federal law or a request made by an
 14 official identified in (a) of this section, the department initiates an internal review or
 15 evaluation of its activities under this chapter, notwithstanding AS 47.10.090 and
 16 47.10.093, the department shall either provide a copy of a report resulting from that
 17 internal review or evaluation to the official or prepare a report of that internal review
 18 and evaluation when requested to do so by an official identified in (a) of this section.
 19 The report must contain a summary of the complaint, the review or evaluation process
 20 used, and the outcome of the review or evaluation, including any recommendations
 21 made as a result of the review. Before being disclosed, the department shall modify a
 22 report prepared or produced under this subsection to exclude all personal identifying
 23 information of a child, the child's family, and witnesses.

24 (e) In this section, "adult family member" means a person who is 18 years of
 25 age or older and who is related to the child as the child's biological or adoptive parent,
 26 grandparent, aunt, uncle, or sibling.

27 * **Sec. 6.** AS 47.17.025 is amended by adding a new subsection to read:

28 (c) Within 20 days after receiving a report of harm, whether or not the matter
 29 is referred to a local government agency, the department shall notify the person who
 30 made the report of the status of the investigation, without disclosing any confidential
 31 information.

1 * **Sec. 7.** AS 47.35.015 is amended by adding a new subsection to read:

2 (j) If a person operates a foster home to provide care only for a relative and the
3 department requires licensure under an agreement for services, the department shall
4 issue a temporary license to an eligible person while an application for a license under
5 this section is pending. The department shall issue the temporary license to the
6 applicant within five days after receiving a complete application for a foster care
7 license under AS 47.35.017. A temporary license is valid for 90 days or until a license
8 is either issued under AS 47.35.017 or denied under AS 47.35.019, whichever is
9 sooner.