

**HOUSE BILL NO. 114**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/26/05

Referred: State Affairs, Health, Education and Social Services, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the retaining of certain privileges of a parent in a relinquishment**  
2 **and termination of a parent and child relationship proceeding; relating to eligibility for**  
3 **permanent fund dividends for certain children in the custody of the state; relating to**  
4 **child in need of aid proceedings and juvenile delinquency proceedings; and providing**  
5 **for an effective date."**

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

7 **\* Section 1.** AS 25.23.180 is amended by adding a new subsection to read:

8 (j) In a relinquishment of parental rights executed under (a) of this section, a  
9 parent may retain privileges with respect to the child, including the ability to have  
10 future contact, communication, and visitation with the child. A retained privilege  
11 must be stated with specificity in the writing and, if a termination order is entered  
12 following the relinquishment, the court shall incorporate a retained privilege into the  
13 termination order. A relinquishment may not be withdrawn or invalidated, nor may a

1 termination order be vacated, on the grounds that a retained privilege has been  
 2 withheld from the relinquishing parent or that the relinquishing parent has been  
 3 unable, for any reason, to act upon a retained privilege.

4 \* **Sec. 2.** AS 43.23.005(f) is amended to read:

5 (f) **The** [IN A TIME OF NATIONAL MILITARY EMERGENCY, THE]  
 6 commissioner may waive the requirement of (a)(4) of this section for an individual  
 7 absent from the state

8 **(1) in a time of national military emergency** under military orders  
 9 while serving in the armed forces of the United States, or for the spouse and  
 10 dependents of that individual; **or**

11 **(2) while in the custody of the Department of Health and Social**  
 12 **Services in accordance with a court order under AS 47.10 or AS 47.12 and placed**  
 13 **outside of the state by the Department of Health and Social Services for purposes**  
 14 **of medical or behavioral treatment.**

15 \* **Sec. 3.** AS 47.10.020(a) is amended to read:

16 (a) Whenever circumstances subject a child to the jurisdiction of the court  
 17 under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency  
 18 to make a preliminary inquiry and report for the information of the court to determine  
 19 whether the best interests of the child require that further action be taken. **The court**  
 20 **shall make the appointment on its own motion or at the request of a person or**  
 21 **agency having knowledge of the child's circumstances.** If, under this subsection,  
 22 the court appoints a person or agency to make a preliminary inquiry and to report to it,  
 23 **or if the department is conducting an investigation of a report of child abuse or**  
 24 **neglect, the court may issue any orders necessary to aid the person, the agency,**  
 25 **or the department in its investigation or in making the preliminary inquiry and**  
 26 **report. Upon** [THEN, UPON THE] receipt of the report **under this subsection,** the  
 27 court may

28 (1) close the matter without a court hearing;

29 (2) determine whether the best interests of the child require that further  
 30 action be taken; or

31 (3) authorize the person or agency having knowledge of the facts of the

1 case to file with the court a petition setting out the facts.

2 \* **Sec. 4.** AS 47.10.020 is amended by adding a new subsection to read:

3 (e) Nothing in this section requires the department to obtain authorization  
4 from the court before

5 (1) conducting an investigation of a report of child abuse or neglect; or

6 (2) filing a petition.

7 \* **Sec. 5.** AS 47.10 is amended by adding a new section to read:

8 **Sec. 47.10.145. Expert witness testimony regarding absent parent,**  
9 **guardian, or custodian.** If the court finds by clear and convincing evidence that a  
10 parent, guardian, or custodian of a child cannot be located after a reasonable search for  
11 the parent, guardian, or custodian has been conducted by the department, the court  
12 may conclude that the testimony of a qualified expert witness would support a finding  
13 that continued custody of the child by the absent parent, guardian, or custodian is  
14 likely to result in serious emotional or physical damage to the child.

15 \* **Sec. 6.** AS 47.10.990(16) is amended to read:

16 (16) "mental health professional" has the meaning given in  
17 AS 47.30.915, **except that if the child is placed in another state by the department,**  
18 **"mental health professional" also includes a professional listed in the definition**  
19 **of "mental health professional" in AS 47.30.915 who is not licensed to practice by**  
20 **a board of this state but is licensed by a corresponding licensing authority to**  
21 **practice in the state in which the child is placed.**

22 \* **Sec. 7.** AS 47.12.990(10) is amended to read:

23 (10) "mental health professional" has the meaning given in  
24 AS 47.30.915, **except that if the minor is placed in another state by the**  
25 **department, "mental health professional" also includes a professional listed in**  
26 **the definition of "mental health professional" in AS 47.30.915 who is not licensed**  
27 **to practice by a board of this state but is licensed by a corresponding licensing**  
28 **authority to practice in the state in which the minor is placed.**

29 \* **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).