

CS FOR SENATE BILL NO. 51(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/2/05

Referred: Rules

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to contracts for the provision of state public assistance to certain**
2 **recipients in the state; providing for regional public assistance plans and programs in**
3 **the state; relating to grants for Alaska Native family assistance programs; relating to**
4 **assignment of child support by Alaska Native family assistance recipients; relating to**
5 **paternity determinations and genetic testing involving recipients of assistance under**
6 **Alaska Native family assistance programs; and providing for an effective date."**

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

8 * **Section 1.** AS 47.27 is amended by adding a new section to read:

9 **Article 3. Alaska Native Family Assistance Grants.**

10 **Sec. 47.27.200. Alaska Native family assistance grants. (a)**
11 Notwithstanding any contrary provision of this chapter, and in addition to grants
12 awarded under AS 47.27.050, the Department of Health and Social Services may
13 award and administer Alaska Native family assistance grants in accordance with this

1 section. Unless specified otherwise in this section, the provisions of AS 47.27.010 -
 2 47.27.085 do not apply to grants under this section or to an Alaska Native family
 3 assistance program operated under such a grant. To be awarded a grant under this
 4 section, an applicant shall

5 (1) meet the requirements of AS 47.27.070;

6 (2) have received approval for, and have agreed to operate, a federally
 7 approved tribal family assistance plan in this state;

8 (3) agree to operate the plan approved under this section on a state
 9 fiscal year basis; and

10 (4) meet the other requirements of this section.

11 (b) If an organization intends to apply for a grant under this section, the
 12 organization shall first submit to the department a letter of intent along with a copy of
 13 the proposed federal tribal family assistance plan that will be submitted to the federal
 14 government for approval. The organization shall make its submission to the
 15 department at least six months before the proposed effective date of the federal tribal
 16 family assistance plan. The department shall review the submission and notify the
 17 organization of significant deficiencies that would make the organization ineligible to
 18 be considered for an Alaska Native family assistance grant without significant changes
 19 to the federal tribal family assistance plan regardless of whether federal approval is
 20 received or whether federal grant money is awarded for implementation of that plan.
 21 The organization may make a supplemental submission to the department to resolve
 22 deficiencies noted by the department. If, after departmental review and supplemental
 23 revision, an organization's plan remains eligible for consideration for a grant award
 24 under this section, the department shall notify the organization that the organization
 25 may submit a proposal for a grant award after the organization has received notice of
 26 federal approval of the federal tribal family assistance plan and the pending award of
 27 federal grant money. The commissioner may waive the time deadline specified in this
 28 subsection if the commissioner

29 (1) enters into a joint planning agreement between the department and
 30 the organization; or

31 (2) finds good cause and the waiver is in the state's best interest.

1 (c) If the department awards a grant under this section, the grant must be in an
2 amount that

3 (1) for the first fiscal year under the plan accepted by the department,
4 represents a fair and equitable portion of the state appropriations for the state public
5 assistance program administered under this chapter intended to serve the state
6 residents who will be served by the plan; and

7 (2) for the second and subsequent state fiscal years under the plan
8 accepted by the department, represents a fair and equitable portion of state
9 appropriations made for public assistance programs that is allocated for Alaska Native
10 family assistance grants to be awarded under this section in order to serve the state
11 residents who will be served by the plan; if the money is not allocated for these grants,
12 the amounts shall be made in the same manner as described in (1) of this subsection.

13 (d) For an organization to be eligible to be awarded a grant under this section,
14 the organization's proposal must include

15 (1) documentation that the organization

16 (A) has received federal approval of its federal tribal family
17 assistance plan to operate a tribal assistance program in this state; and

18 (B) will receive a grant directly from the federal government to
19 implement the federal tribal family assistance plan;

20 (2) a plan for operation of the Alaska Native family assistance grant
21 that meets the requirements of (e) of this section; and

22 (3) if the commissioner determines that a federally approved tribal
23 family assistance plan would be a cost-effective and efficient means of administering
24 the program established in this chapter in that region of the state and the needs of state
25 public assistance recipients receiving assistance under this chapter can be met through
26 a contract awarded under AS 47.27.300, the organization's agreement to enter into a
27 contract with the department to provide state public assistance to those eligible state
28 residents in the region who are not included in the population to be served by the
29 federally approved tribal family assistance plan.

30 (e) An organization's plan for operation of the Alaska Native family assistance
31 grant must

1 (1) be designed to facilitate self-sufficiency of assistance recipients in
2 the region specified in the federally approved tribal family assistance plan by
3 addressing the conditions specific to that region;

4 (2) provide for a reasonable pattern of service delivery from all
5 providers serving that region;

6 (3) serve a specified region that consists of a geographically cohesive
7 group of communities that share similar interests, resources, and traditions;

8 (4) establish the same maximum number of months of benefits as is
9 established for the state program under AS 47.27.015(a)(1); and

10 (5) provide for administration of the grant money received under this
11 section to establish a program in accordance with the plan accepted by the department
12 and in compliance with other requirements of this section; the program must include
13 the following standards for providing assistance to eligible families:

14 (A) only families with at least one dependent child or a woman
15 in the last trimester of pregnancy are eligible for assistance paid from an
16 Alaska Native family assistance grant;

17 (B) amounts for assistance provided from an Alaska Native
18 family assistance grant to eligible families may not exceed the amounts
19 specified under AS 47.27.025(b) when combined with assistance provided
20 under the federally approved tribal family assistance grant;

21 (C) to remain eligible for assistance paid from an Alaska
22 Native family assistance grant, a minor parent of a dependent child must meet
23 the requirements of AS 47.27.027;

24 (D) families receiving assistance paid from an Alaska Native
25 family assistance grant shall comply with the provisions of AS 47.27.035(a)
26 regarding participation in work activities;

27 (E) families receiving assistance paid from Alaska Native
28 family assistance grant money shall comply with the provisions of (l) - (n) of
29 this section regarding assignment of support rights and cooperation with the
30 child support services agency;

31 (F) the organization has an impartial appeals process to allow

1 affected families in the region of the state covered by the plan accepted by the
2 department to have a fair hearing.

3 (f) The department may award a grant under this section only if the
4 department determines that the proposal, including a plan for operation of the grant,
5 meets the criteria specified in (d) and (e) of this section and that an award of the grant
6 to the organization would be in the public interest. The grant agreement must state
7 that the Alaska Native family assistance program will require all program participants
8 to assign child support rights to the Alaska Native family assistance program unless
9 the Alaska Native organization elects to require participants to assign those child
10 support rights to the state. The department may not distribute grant money until a
11 grant agreement between the organization and the department is executed that meets
12 the requirements of this section.

13 (g) Records pertaining to recipients of assistance from an Alaska Native
14 family assistance grant awarded under this section are confidential public assistance
15 records under AS 47.05.020 and regulations adopted under AS 47.05.020. Use and
16 misuse of these records are subject to the provisions of AS 47.05.030. It is an official
17 purpose under AS 47.05.020 for an organization receiving a grant under this section
18 and the department or another agency of the state to exchange information concerning
19 recipients of assistance under this section if the information requested is for purposes
20 directly connected with the administration of a grant under this section.

21 (h) An organization receiving a grant under this section shall provide to the
22 department a copy of its quarterly report made under 42 U.S.C. 611. The organization
23 shall have its financial records audited annually by a certified public accountant
24 authorized to practice under AS 08.04. The department may prescribe the form and
25 specify the information required to document compliance with this section.

26 (i) If an organization wishes to terminate its program before the end of the
27 time period for which the grant was awarded under this section, the organization must
28 obtain the consent of the department or provide notice to the department 120 days
29 before the anticipated date of termination. At the end of a grant agreement or by early
30 termination under this section, the organization shall provide an inventory of property
31 valued at \$1,000 or over and purchased, in whole or in part, with grant money

1 awarded under this section. The department shall notify the organization of the
2 required disposition of the property listed on the inventory.

3 (j) If the department awards a grant under this section, a person applying for
4 assistance under this chapter who is covered by the federally approved tribal family
5 assistance plan in that region of the state may obtain assistance from the department
6 only through the organization designated by the department to serve the region. A
7 person aggrieved by a decision made by an organization under a grant awarded under
8 this section may use the appeal procedure specified in AS 47.27.300(e).

9 (k) Notwithstanding (j) of this section, a person applying for assistance under
10 this chapter in a region of the state that is served by both an Alaska Native family
11 assistance program that receives a grant under this section and a program administered
12 directly by the department may request to receive assistance under the program
13 administered directly by the department by applying to the department under this
14 subsection and in accordance with regulations adopted under this subsection. The
15 department shall approve the application if the department finds that the applicant has
16 shown that special circumstances exist that support the request to use the state
17 program.

18 (l) A participant in an Alaska Native family assistance program shall assign to
19 the Alaska Native family assistance program, unless the program has elected to require
20 assignment to the state, all rights to ongoing child support that accrues after the
21 effective date of the assignment for the support of the individuals in the family for
22 whom assistance is provided, but not to exceed the total amount of assistance paid by
23 the Alaska Native family assistance program to the family. The assignment takes
24 effect when information required under (n) of this section is provided to the child
25 support services agency following the determination of eligibility. Except with
26 respect to any unpaid support that accrued under the assignment, the assignment
27 terminates when the family ceases to participate in the Alaska Native family assistance
28 program. All assignments to an Alaska Native family assistance program of unpaid
29 child support obligations transfer to the state upon the termination of an Alaska Native
30 family assistance program.

31 (m) An Alaska Native family assistance program participant shall cooperate

1 with the child support services agency in the manner described in AS 47.27.040(b) in
2 establishing paternity or establishing, modifying, or enforcing a child support order
3 requiring the payment of support by the noncustodial parent for a dependent child for
4 whom assistance is received. The child support services agency shall inform the
5 Alaska Native family assistance program if it determines that the participant is not in
6 good faith compliance with the requirements of AS 47.27.040(b). The Alaska Native
7 family assistance program shall determine whether the participant has good cause for
8 refusing to cooperate.

9 (n) An Alaska Native family assistance program that receives assignments of
10 ongoing child support shall provide public assistance information concerning those
11 assignments to the child support services agency in a timely manner in order to
12 establish a valid assignment. The information shall be provided by electronic means
13 and in a format acceptable to the child support services agency. For the purposes of
14 this subsection, "timely manner" means within the time constraints established for
15 child support agency distributions under federal law.

16 (o) The applicability of AS 25.27 in the case of a recipient under an Alaska
17 Native family assistance program includes the following:

18 (1) an obligor is liable to the Alaska Native family assistance program
19 in the amount of the family assistance provided by the program to a child to whom the
20 obligor owes a duty of support except that, if a support order has been entered, the
21 liability of the obligor for assistance provided by an Alaska Native family assistance
22 program may not exceed the amount of support provided for in the support order, and,
23 if a medical order of support has been entered, the liability of the obligor for assistance
24 granted under AS 47.07 may not exceed the amount of support provided for in the
25 medical order of support; the child support services agency shall send notice of
26 accruing liability under this paragraph in the same manner as required under
27 AS 25.27.120(c), and, if the agency fails to comply with the notice requirement of this
28 paragraph, interest does not accrue on the liability to the Alaska Native family
29 assistance program unless a support order or medical support order, as applicable, has
30 been entered;

31 (2) the child support services agency may appear in an action

1 authorized under AS 25.27.045 at the agency's own discretion if an obligor under
2 AS 25.27 is liable to the Alaska Native family assistance program under (1) of this
3 subsection;

4 (3) an Alaska Native family assistance program to which the child
5 support services agency erroneously disburses an overpayment of child support under
6 an income withholding order is liable to the state for the amount disbursed, plus
7 interest at the rate imposed under AS 25.27.062(l)(1);

8 (4) when the right to receive child support has been assigned to an
9 Alaska Native family assistance program, an agreement under AS 25.27.065(a) that
10 has not been adopted as an administrative order of the child support services agency is
11 not effective during a period when the obligee is receiving assistance under an Alaska
12 Native family assistance program;

13 (5) the child support services agency, on behalf of an Alaska Native
14 family assistance program, shall take all necessary action permitted by law to enforce
15 child support orders entered under AS 25.27, including petitioning the court for orders
16 to aid in the enforcement of child support;

17 (6) if an obligor under AS 25.27 is liable to an Alaska Native family
18 assistance program under (1) of this subsection, the state is subrogated to the rights of
19 the obligee to take actions authorized under AS 25.27.130(a);

20 (7) notwithstanding AS 25.27.130(c), the recovery of an amount for
21 which an obligor under AS 25.27 is liable that exceeds the total assistance granted
22 under AS 47.07 and this chapter shall be paid to the obligee;

23 (8) except as provided in AS 25.27.130(f), if an obligee under
24 AS 25.27 is not receiving assistance under AS 47.07 or this chapter at the time the
25 state recovers money in an action under AS 25.27.130(d) or (1) of this subsection, the
26 recovery of any amount for which the obligor is liable shall be distributed to the
27 obligee for support payments, including medical support payments, that had become
28 due and unpaid since the termination of assistance under AS 47.07 or this chapter
29 under a support order in favor of the obligee;

30 (9) after payment to the obligee under (8) of this subsection, the state
31 may retain an amount not to exceed the total unreimbursed assistance paid on behalf

1 of the obligee under AS 47.07 or this chapter;

2 (10) if an alleged obligor is liable to an Alaska Native family
3 assistance program under (1) of this subsection, and a support order has not been
4 entered, the child support services agency may, at its own discretion, undertake an
5 action to establish paternity and a duty of support using the procedures prescribed in
6 AS 25.27 and may enforce a duty of support using the procedures prescribed in
7 AS 25.27; the agency may also institute administrative proceedings to determine the
8 paternity of a child born out of wedlock upon application of an Alaska Native family
9 assistance program; the agency may not recover costs of genetic tests required under
10 this paragraph from a person who is a recipient of assistance under an Alaska Native
11 family assistance program;

12 (11) when a hearing officer makes a determination under
13 AS 25.27.170(d), the hearing officer shall, in addition to the factors described in
14 AS 25.27.170(e), consider the amount of the alleged obligor's liability to an Alaska
15 Native family assistance program under (1) of this subsection;

16 (12) notwithstanding AS 25.27.255(a), the child support services
17 agency may not pay to an obligee any money that has been assigned to an Alaska
18 Native family assistance program.

19 (p) Nothing in this section requires the department to continue to fund an
20 Alaska Native family assistance grant program at a level funded before the current
21 grant period or to replace federal funds for the program with state funding.

22 * **Sec. 2.** AS 47.27 is amended by adding a new section to read:

23 **Article 4. Regional Programs.**

24 **Sec. 47.27.300. Regional public assistance programs.** (a) The department
25 may develop a regional public assistance program for the administration of this
26 chapter in order to provide state public assistance in a uniform and cost-effective
27 manner in a region of this state if an Alaska Native organization is authorized to
28 implement a federally approved tribal family assistance plan that includes that region
29 and has been awarded an Alaska Native family assistance grant for a program that
30 includes that region for the applicable fiscal year under AS 47.27.200. The regional
31 public assistance program developed under this section must be designed to serve

1 eligible state residents in the region covered by the program who are not already
2 covered by a federally approved tribal family assistance plan in that region.

3 (b) The department may award contracts to implement a program developed
4 under (a) of this section. A contract authorized for delivery of state public assistance
5 under a regional public assistance program under this section is exempt from the
6 competitive bid requirements of AS 36.30 (State Procurement Code). Subject to
7 appropriation, a contract under this section must be in an amount that represents a fair
8 and equitable share of the money appropriated under this chapter to serve the state
9 residents specified in (a) of this section. This section provides additional authority to
10 contract to that available under AS 47.05.015 or other law.

11 (c) The department may award a contract under this section only to an
12 organization that

13 (1) has been awarded an Alaska Native family assistance grant under
14 AS 47.27.200 for a program that includes that region;

15 (2) agrees to administer state public assistance under this chapter to
16 state residents in the region who are not served by the Alaska Native family assistance
17 grant awarded under AS 47.27.200;

18 (3) agrees to provide state public assistance identical to that provided
19 under the federally approved tribal family assistance plan for which Alaska Native
20 family assistance grant money has been awarded under AS 47.27.200; and

21 (4) agrees to implement an appeals process as described in (e) of this
22 section.

23 (d) Records pertaining to recipients of state public assistance under a contract
24 awarded under this section have the same confidential protections as are provided to
25 recipients of assistance from Alaska Native family assistance grants under
26 AS 47.27.200.

27 (e) An organization that receives a contract under this section shall provide an
28 appeals process to applicants for or recipients of state public assistance covered by the
29 contract awarded under this section. The appeals process must be the same as the
30 method available under the federally approved tribal family assistance plan, except
31 that the decision reached will be considered as a recommended decision to the

1 department. Within 30 days after receiving a recommended decision, the department
 2 shall review the recommended decision and issue a decision accepting or rejecting the
 3 recommended decision. If the department rejects the recommended decision, the
 4 department shall independently review the record and issue its final decision. The
 5 final decision of the department on the matter is appealable to the courts of this state.

6 (f) If the department establishes a regional public assistance program and
 7 awards a contract to provide state public assistance under this section, a person
 8 applying for state public assistance under this chapter in the region of the state covered
 9 by the regional public assistance program may obtain state public assistance from the
 10 department only through the organization designated by the department to serve the
 11 region.

12 * **Sec. 3.** AS 47.27.900 is amended by adding new paragraphs to read:

13 (11) "Alaska Native family assistance grant" means a grant under
 14 AS 47.27.200;

15 (12) "Alaska Native family assistance program" means a program
 16 funded in part by a grant under AS 47.27.200;

17 (13) "federally approved tribal family assistance plan" means a plan
 18 that meets the requirements of 42 U.S.C. 612 and has been approved for financing
 19 through a tribal family assistance grant directly from the United States Department of
 20 Health and Human Services.

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

23 TRANSITION: REGULATIONS. Regulations adopted by the Department of Health
 24 and Social Services to implement ch. 96, SLA 2000, and in effect on June 29, 2005, remain in
 25 effect, and may be implemented and enforced as regulations implementing this Act.

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

28 REVISOR'S INSTRUCTIONS. The revisor of statutes is instructed to designate
 29 existing

30 (1) AS 47.27.005 as "Article 1. Administrative Provisions";

31 (2) AS 47.27.010 - 47.27.085 as "Article 2. Alaska Temporary Assistance

1 Program"; and

2 (3) AS 47.27.900 - 47.27.990 as "Article 5. General Provisions."

3 * **Sec. 6.** This Act takes effect June 30, 2005.