

CS FOR HOUSE BILL NO. 354(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/29/08

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES COGHILL, Dahlstrom, Roses, Gara

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to adoptions, to subsidies for a hard-to-place child, to criminal**
2 **sanctions for unlawful disclosure of confidential information pertaining to a child, to**
3 **child support orders in child-in-need-of-aid and delinquency proceedings, and to civil**
4 **actions on behalf of children in need of aid who are injured or die while in state custody;**
5 **and providing for an effective date."**

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

7 *** Section 1.** AS 25.23.050 is amended to read:

8 **Sec. 25.23.050. Persons as to whom consent and notice not required. (a)**

9 Consent to adoption is not required of

10 (1) for purposes of this section, a parent who has abandoned a child for
11 a period of at least six months;

12 (2) a parent of a child in the custody of another, if the parent for a
13 period of at least one year has failed significantly without justifiable cause, including

1 but not limited to indigency,

2 (A) to communicate meaningfully with the child, or

3 (B) to provide for the care and support of the child as required
4 by law or judicial decree;

5 (3) the father of a minor if the father's consent is not required by
6 AS 25.23.040(a)(2);

7 (4) a parent who has relinquished the right to consent under
8 AS 25.23.180;

9 (5) a parent whose parental rights have been terminated by order of the
10 court under AS 25.23.180(c)(3) or AS 47.10.080(c)(3);

11 (6) a parent judicially declared incompetent or mentally defective if the
12 court dispenses with the parent's consent;

13 (7) a parent of the person to be adopted, if the person is 18 [19] or
14 more years of age [, AND THE COURT DISPENSES WITH THE CONSENT OF
15 THE PARENT];

16 (8) a guardian or custodian specified in AS 25.23.040(a)(3) or (4) who
17 has failed to respond in writing to a request for consent for a period of 60 days or who,
18 after examination of the guardian's or custodian's written reasons for withholding
19 consent, is found by the court to be withholding consent unreasonably; or

20 (9) the spouse of the person to be adopted, if the requirement of
21 consent to the adoption is waived by the court by reason of prolonged unexplained
22 absence, unavailability, incapacity, or circumstances constituting an unreasonable
23 withholding of consent.

24 (b) Except as provided in AS 25.23.100, notice of a hearing on a petition for
25 adoption need not be given to a person whose consent is not required or to a person
26 whose consent or relinquishment has been filed with the petition.

27 * **Sec. 2.** AS 25.23.100(a) is amended to read:

28 (a) After the filing of a petition to adopt a minor, the court shall fix a time and
29 place for hearing the petition. **Except as provided in (k) of this section, at** [AT] least
30 20 days before the date of hearing, the petitioner shall give notice of the filing of the
31 petition and of the time and place of hearing to (1) the department, unless the adoption

1 is by a stepparent of the child; (2) any agency or person whose consent to the adoption
 2 is required by this chapter, but who has not consented; and (3) a person whose consent
 3 is dispensed with upon any ground mentioned in AS 25.23.050(a)(1), (2), (3), (6), (7),
 4 (8) and (9), but who has not consented. The notice to the department shall be
 5 accompanied by a copy of the petition.

6 * **Sec. 3.** AS 25.23.100 is amended by adding a new subsection to read:

7 (k) A petitioner is not required to provide notice under (a) of this section to a
 8 parent whose consent is dispensed with under AS 25.23.050(a)(1) or (a)(2) if the
 9 parent has had no contact with the child and has not supported the child

10 (1) during the year preceding the filing of the petition for adoption; and

11 (2) after the filing of the petition.

12 * **Sec. 4.** AS 25.23.210 is repealed and reenacted to read:

13 **Sec. 25.23.210. Amount and duration of subsidy payments.** (a) The
 14 department may adopt regulations to set the amount and length of time that a subsidy
 15 for a hard-to-place child may be granted.

16 (b) A subsidy granted by the department under this section may be

17 (1) paid for a specified length of time not to extend after the child's
 18 18th birthday; and

19 (2) a deferred subsidy; in this paragraph, "deferred subsidy" means that
 20 no monetary reimbursement is paid to a family but other benefits are paid for the
 21 child.

22 (c) A subsidy granted under this section may not

23 (1) exceed the existing rate for foster care; or

24 (2) be changed without the written request or consent of the person
 25 caring for the child.

26 (d) The department shall review whether the amount of a subsidy granted for a
 27 child is appropriate on request of the person caring for the child.

28 (e) Subsidies shall be paid from the same public funds and in the same manner
 29 as foster care payments.

30 * **Sec. 5.** AS 47.10.092(f) is amended to read:

31 (f) A person who discloses confidential or privileged information in

1 **violation of (a)** [VIOLATES A PROVISION] of this section is guilty of a
2 misdemeanor, and upon conviction is punishable by a fine of not more than \$500 or by
3 imprisonment for not more than one year, or by both.

4 * **Sec. 6.** AS 47.10.120(a) is amended to read:

5 (a) When a child in need of aid is committed under this chapter, the court **or**
6 **the child support services agency created in AS 25.27.010** shall, after giving the
7 parent a reasonable opportunity to be heard, **require** [ADJUDGE] that the parent pay
8 to the department in a manner that the court **or the child support services agency**
9 directs a sum to cover in full or in part the maintenance and care of the child. The
10 support obligation shall be calculated under Rule 90.3(i) of the Alaska Rules of Civil
11 Procedure.

12 * **Sec. 7.** AS 47.10.960 is amended to read:

13 **Sec. 47.10.960. Civil liability. Except as provided in (b) of this section,**
14 **failure** [FAILURE] to comply with a provision of this title does not constitute a basis
15 for civil liability for damages.

16 * **Sec. 8.** AS 47.10.960 is amended by adding a new subsection to read:

17 (b) Nothing in this section shall be construed to prohibit a civil action for
18 common law negligence or an action under AS 09.55.580 on behalf of a child who is
19 injured or dies while in the custody of the state.

20 * **Sec. 9.** AS 47.12.230(a) is amended to read:

21 (a) When a delinquent minor is committed under this chapter, the court **or the**
22 **child support services agency created in AS 25.27.010** shall, after giving the parent
23 a reasonable opportunity to be heard, **require** [ADJUDGE] that the parent pay to the
24 department in a manner that the court **or the child support services agency** directs a
25 sum to cover in full or in part the maintenance and care of the minor. The support
26 obligation shall be calculated under Rule 90.3(i) of the Alaska Rules of Civil
27 Procedure.

28 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).