

**HOUSE BILL NO. 358**

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

**BY REPRESENTATIVE GARA**

**Introduced: 2/8/08**

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

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to continuing the public education of a homeless student, to the**  
2 **purpose of certain laws as they relate to children, to the determination of costs of**  
3 **maintenance of certain children in foster care, and to the salaries and benefits of certain**  
4 **social workers employed by the state; and providing for an effective date."**

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

6 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
7 to read:

8 LEGISLATIVE FINDINGS. (a) The State of Alaska has a chronic shortage of social  
9 workers. Those social workers are needed to enhance the chance of success, and to protect the  
10 health and safety of foster children and other children in need of aid, and the shortage  
11 jeopardizes their safety and chances of success in life. The inadequate number of social  
12 workers in Alaska also leaves foster parents without needed help, and is part of the reason the  
13 state has a shortage of foster parents.

14 (b) The pay offered by the state to social workers is vastly inadequate to attract and

1 retain qualified employees, and is a major reason for shortages of social workers. It is  
 2 important that the state immediately resolve this problem to protect the public, and to enhance  
 3 the chances that foster children will succeed in life.

4 \* **Sec. 2.** AS 14.03 is amended by adding a new section to read:

5 **Sec. 14.03.096. Continuing the public education of a homeless student.** (a)

6 Except as provided under (b) of this section, the governing body of a school district  
 7 shall, to the extent feasible, comply with the requirements for continuing the public  
 8 education of a homeless student in the student's school of origin and for providing  
 9 comparable education services during the homelessness under 42 U.S.C. 11431 -  
 10 11435 (McKinney-Vento Homeless Education Assistance Improvement Act of 2001).

11 (b) A governing body of a school district may transfer a homeless student to  
 12 another school if the student

13 (1) is adjudicated delinquent and committed to the custody of the  
 14 department under AS 47.14;

15 (2) is disabled and a decision is made by an authorized person to  
 16 transfer the student to a school that complies with the student's individual educational  
 17 plan; or

18 (3) requires or requests a transfer to enhance the student's education  
 19 and the school of origin cannot provide the enhancement.

20 (c) If a homeless student is transferred to another school, the school of origin  
 21 shall transfer the student's school records as early as possible and within 10 days after  
 22 the transfer.

23 (d) In this section,

24 (1) "homeless student" has the meaning given in 42 U.S.C. 11434a for  
 25 "homeless child or youth," and the phrase "awaiting foster care placement" in that  
 26 definition shall be interpreted to include all students who are placed in out-of-home  
 27 care and in the custody of the Department of Health and Social Services under  
 28 AS 47.10.080(c) or who are committed to the custody of the Department of Health and  
 29 Social Services under AS 47.12.120(b)(1) or (3);

30 (2) "school of origin" means the school that the student attended when  
 31 permanently housed or the school in which the student was last enrolled.

1 \* **Sec. 3.** AS 44.29 is amended by adding a new section to read:

2 **Sec. 44.29.021. Salaries and benefits for certain social workers.**

3 Notwithstanding AS 39.25, AS 39.35, and other provisions of law, the commissioner  
4 of health and social services may increase the salaries and benefits of social workers  
5 who provide services to or for the benefit of children who are in need of aid or are in  
6 foster care under AS 47. The commissioner shall exercise the authority to increase  
7 salaries and benefits under this section only as necessary to attract and retain an  
8 adequate number of qualified social workers and as would be consistent with art. XII,  
9 sec. 6, Constitution of the State of Alaska, setting out the merit principle applicable to  
10 employment by the state.

11 \* **Sec. 4.** AS 47.05.060 is amended to read:

12 **Sec. 47.05.060. Purpose and policy relating to children.** The purpose of this  
13 title as it relates to children is to secure for each child the care and guidance,  
14 preferably in the child's own home, as well as an adequate education, that will serve  
15 the moral, emotional, mental, intellectual, and physical welfare of the child and the  
16 best interests of the community; to preserve and strengthen the child's family ties  
17 unless efforts to preserve and strengthen the ties are likely to result in physical or  
18 emotional damage to the child, removing the child from the custody of the parents  
19 only as a last resort when the child's welfare or safety or the protection of the public  
20 cannot be adequately safeguarded without removal; and, when the child is removed  
21 from the family, to secure for the child adequate custody, education, and care and  
22 adequate planning for permanent placement of the child.

23 \* **Sec. 5.** AS 47.05.065 is amended to read:

24 **Sec. 47.05.065. Legislative findings related to children.** The legislature finds  
25 that

26 (1) parents have the following rights and responsibilities relating to the  
27 care and control of their child while the child is a minor:

28 (A) the responsibility to provide the child with food, clothing,  
29 shelter, education, and medical care;

30 (B) the right and responsibility to protect, nurture, train, and  
31 discipline the child, including the right to direct the child's medical care and

1 the right to exercise reasonable corporal discipline;

2 (C) the right to determine where and with whom the child shall  
3 live;

4 (D) the right and responsibility to make decisions of legal or  
5 financial significance concerning the child;

6 (E) the right to obtain representation for the child in legal  
7 actions; and

8 (F) the responsibility to provide special safeguards and care,  
9 including appropriate prenatal and postnatal protection for the child;

10 (2) it is the policy of the state to strengthen families and to protect  
11 children from child abuse and neglect; the state recognizes that, in some cases,  
12 protection of a child may require removal of the child from the child's home; however,

13 (A) except in those cases involving serious risk to a child's  
14 health or safety, the Department of Health and Social Services should provide  
15 time-limited family support services to the child and the child's family in order  
16 to offer parents the opportunity to remedy parental conduct or conditions in the  
17 home that placed the child at risk of harm so that a child may return home  
18 safely and permanently; and

19 (B) the state also recognizes that when a child is removed from  
20 the home, visitation between the child and the child's parents or guardian and  
21 family members reduces the trauma for the child and enhances the likelihood  
22 that the child will be able to return home; therefore, whenever a child is  
23 removed from the parental home, the Department of Health and Social  
24 Services should encourage frequent, regular, and reasonable visitation of the  
25 child with the child's parent or guardian and family members;

26 (3) it is the policy of the state to recognize that, when a child is a ward  
27 of the state, the child is entitled to reasonable safety, adequate care, and adequate  
28 treatment and that the Department of Health and Social Services as legal custodian and  
29 the child's guardian ad litem as guardian of the child's best interests and their agents  
30 and assignees, each should make reasonable efforts to ensure that the child is provided  
31 with reasonable safety, adequate care, and adequate treatment for the duration of time

1 that the child is a ward of the state;

2 (4) it is in the best interests of a child who has been removed from the  
3 child's own home for the state to apply the following principles in resolving the  
4 situation:

5 (A) the child should be placed in a safe, secure, and stable  
6 environment;

7 (B) the child should not be moved unnecessarily;

8 (C) a planning process should be followed to lead to permanent  
9 placement of the child;

10 (D) every effort should be made to encourage psychological  
11 attachment between the adult caregiver and the child;

12 (E) frequent, regular, and reasonable visitation with the parent  
13 or guardian and family members should be encouraged; [AND]

14 (F) parents and guardians must actively participate in family  
15 support services so as to facilitate the child's being able to remain in the home;  
16 when children are removed from the home, the parents and guardians must  
17 actively participate in family support services to make return of their children  
18 to the home possible; **and**

19 **(G) the child should continue to attend the child's school of**  
20 **origin as provided under AS 14.03.096;**

21 (5) numerous studies establish that

22 (A) children undergo a critical attachment process before the  
23 time they reach six years of age;

24 (B) a child who has not attached with an adult caregiver during  
25 this critical stage will suffer significant emotional damage that frequently leads  
26 to chronic psychological problems and antisocial behavior when the child  
27 reaches adolescence and adulthood; and

28 (C) it is important to provide for an expedited placement  
29 procedure to ensure that all children, especially those under the age of six  
30 years, who have been removed from their homes are placed in permanent  
31 homes expeditiously.

1 \* **Sec. 6.** AS 47.14.100(b) is amended to read:

2 (b) The department may pay the costs of maintenance that are necessary to  
3 assure adequate care of the child, and may accept funds from the federal government  
4 that are granted to assist in carrying out the purposes of this chapter, or that are paid  
5 under contract entered into with a federal department or agency. **At least once each**  
6 **year, the department shall recalculate the costs of maintenance that are necessary**  
7 **to assure adequate care of a child in a foster family based on the latest federal**  
8 **poverty guidelines as determined by the United States Department of Health and**  
9 **Human Services.** A child under the care of the department may not be placed in a  
10 family home or institution that does not maintain adequate standards of care.

11 \* **Sec. 7.** Sections 1 and 3 of this Act take effect immediately under AS 01.10.070(c).