

SENATE BILL NO. 105

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATORS DAVIS, Ellis

Introduced: 2/11/09

Referred: Education, Health and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to continuing the secondary public education of a homeless student;**
2 **relating to the purpose of certain laws as they relate to children; relating to tuition**
3 **waivers, loans, and medical assistance for a child placed in out-of-home care by the**
4 **state; relating to foster care; relating to children in need of aid; relating to foster care**
5 **transition to independent living; and relating to juvenile programs and institutions."**

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

7 *** Section 1.** AS 14.03 is amended by adding a new section to read:

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

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

1 (b) The requirements in (a) of this section do not apply if

2 (1) the student moves to a school district other than the school district
3 in which the student's school of origin is located; or

4 (2) the superintendent of the school district makes a written finding
5 that a waiver of the requirements is in the student's best academic interest and the
6 finding is mailed to the school board and to the person in charge of children's services
7 for the Department of Health and Social Services.

8 (c) If a homeless student is transferred to a school other than the student's
9 school of origin, the school of origin shall provide a copy of the student's records to
10 the student's new school within 7 school days after notification of the transfer. The
11 student's new school shall allow the student to attend school while awaiting the
12 transfer of records under this subsection.

13 (d) In this section,

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

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

22 * **Sec. 2.** AS 14.43 is amended by adding a new section to read:

23 **Article 3A. Free Tuition for a Person Who Was in Out-of-Home Care.**

24 **Sec. 14.43.086. Free tuition and fees for a person who was in out-of-home**
25 **care.** (a) A person who enrolls as a student in good standing in a state-supported
26 educational institution in the state is entitled to a waiver of tuition, fees, and room and
27 board expenses if the person provides adequate proof that the person

28 (1) was in the custody of the state under AS 47.10 or AS 47.14;

29 (2) was placed in out-of-home care for a period of not less than six
30 consecutive months on or after the person became 16 years of age;

31 (3) has applied for educational loans, grants, or scholarships that the

1 person is otherwise eligible for as recommended by the educational institution; and

2 (4) is under 29 years of age.

3 (b) The educational institution may require an eligible recipient to apply for a
4 loan under AS 14.43.112.

5 (c) The proceeds of an education loan, including a loan under AS 14.43.112,
6 grant, or scholarship received by a person eligible for a waiver under this section must
7 be paid to the educational institution to offset the person's tuition, fees, and room and
8 board expenses.

9 * **Sec. 3.** AS 14.43 is amended by adding a new section to read:

10 **Sec. 14.43.112. Education loans for a child who was in out-of-home care.**

11 (a) The commission may, subject to the loan conditions under AS 14.43.120 and the
12 eligibility requirements under AS 14.43.125, make a loan in a school year to a person
13 who is eligible for a tuition waiver under AS 14.43.086 to offset the person's tuition,
14 fees, and room and board expenses as provided under that section. Notwithstanding
15 the limits under AS 14.43.120(d), a loan made under this section may not exceed
16 \$4,000 annually for a full-time undergraduate or graduate student or \$2,000 annually
17 for a half-time undergraduate or graduate student attending a state-supported
18 educational institution in the state.

19 (b) The commission may not require repayment of or assess interest on a loan
20 made under this section before six months after the completion of the program for
21 which the loan was paid unless the borrower fails to complete the program in five
22 years.

23 * **Sec. 4.** AS 14.43.160 is amended by adding a new paragraph to read:

24 (7) "out-of-home care" means care and shelter provided by a foster
25 parent or relative other than a parent with whom a child is placed by the Department
26 of Health and Social Services.

27 * **Sec. 5.** AS 47.05.060 is amended to read:

28 **Sec. 47.05.060. Purpose and policy relating to children.** The purpose of this
29 title as it relates to children is to secure for each child the care and guidance,
30 preferably in the child's own home, **as well as an adequate education**, that will serve
31 the moral, emotional, mental, **intellectual**, and physical welfare of the child and the

1 best interests of the community; to preserve and strengthen the child's family ties
 2 unless efforts to preserve and strengthen the ties are likely to result in physical or
 3 emotional damage to the child, removing the child from the custody of the parents
 4 only as a last resort when the child's welfare or safety or the protection of the public
 5 cannot be adequately safeguarded without removal; and, when the child is removed
 6 from the family, to secure for the child adequate custody, education, and care and
 7 adequate planning for permanent placement of the child.

8 * **Sec. 6.** AS 47.05.065 is amended to read:

9 **Sec. 47.05.065. Legislative findings related to children.** The legislature finds
 10 that

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

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

15 (B) the right and responsibility to protect, nurture, train, and
 16 discipline the child, including the right to direct the child's medical care and
 17 the right to exercise reasonable corporal discipline;

18 (C) the right to determine where and with whom the child shall
 19 live;

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

22 (E) the right to obtain representation for the child in legal
 23 actions; and

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

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

29 (A) except in those cases involving serious risk to a child's
 30 health or safety, the Department of Health and Social Services should provide
 31 time-limited family support services to the child and the child's family in order

1 to offer parents the opportunity to remedy parental conduct or conditions in the
2 home that placed the child at risk of harm so that a child may return home
3 safely and permanently; and

4 (B) the state also recognizes that when a child is removed from
5 the home, visitation between the child and the child's parents or guardian and
6 family members reduces the trauma for the child and enhances the likelihood
7 that the child will be able to return home; therefore, whenever a child is
8 removed from the parental home, the Department of Health and Social
9 Services should encourage frequent, regular, and reasonable visitation of the
10 child with the child's parent or guardian and family members;

11 (3) it is the policy of the state to recognize that, when a child is a ward
12 of the state, the child is entitled to reasonable safety, adequate care, and adequate
13 treatment and that the Department of Health and Social Services as legal custodian and
14 the child's guardian ad litem as guardian of the child's best interests and their agents
15 and assignees, each should make reasonable efforts to ensure that the child is provided
16 with reasonable safety, adequate care, and adequate treatment for the duration of time
17 that the child is a ward of the state;

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

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

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

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

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

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

30 (F) parents and guardians must actively participate in family
31 support services so as to facilitate the child's being able to remain in the home;

1 when children are removed from the home, the parents and guardians must
 2 actively participate in family support services to make return of their children
 3 to the home possible; **and**

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

6 (5) numerous studies establish that

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

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

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

17 * **Sec. 7.** AS 47.07.020(b) is amended to read:

18 (b) In addition to the persons specified in (a) of this section, the following
 19 optional groups of persons for whom the state may claim federal financial
 20 participation are eligible for medical assistance:

21 (1) persons eligible for but not receiving assistance under any plan of
 22 the state approved under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act,
 23 Supplemental Security Income) or a federal program designated as the successor to the
 24 aid to families with dependent children program;

25 (2) persons in a general hospital, skilled nursing facility, or
 26 intermediate care facility, who, if they left the facility, would be eligible for assistance
 27 under one of the federal programs specified in (1) of this subsection;

28 (3) persons under 21 years of age who are under supervision of the
 29 department, for whom maintenance is being paid in whole or in part from public
 30 funds, and who are in **out-of-home care** [FOSTER HOMES] or private child-care
 31 institutions;

1 (4) aged, blind, or disabled persons, who, because they do not meet
2 income and resources requirements, do not receive supplemental security income
3 under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act), and who do not
4 receive a mandatory state supplement, but who are eligible, or would be eligible if
5 they were not in a skilled nursing facility or intermediate care facility to receive an
6 optional state supplementary payment;

7 (5) persons under 21 years of age who are in an institution designated
8 as an intermediate care facility for the mentally retarded and who are financially
9 eligible as determined by the standards of the federal program designated as the
10 successor to the aid to families with dependent children program;

11 (6) persons in a medical or intermediate care facility whose income
12 while in the facility does not exceed \$1,656 a month but who would not be eligible for
13 an optional state supplementary payment if they left the hospital or other facility;

14 (7) persons under 21 years of age who are receiving active treatment in
15 a psychiatric hospital and who are financially eligible as determined by the standards
16 of the federal program designated as the successor to the aid to families with
17 dependent children program;

18 (8) persons under 21 years of age and not covered under (a) of this
19 section [,] who would be eligible for benefits under the federal program designated as
20 the successor to the aid to families with dependent children program, except that they
21 have the care and support of both their natural and adoptive parents;

22 (9) pregnant women not covered under (a) of this section and who
23 meet the income and resource requirements of the federal program designated as the
24 successor to the aid to families with dependent children program;

25 (10) persons under 21 years of age not covered under (a) of this section
26 who the department has determined cannot be placed for adoption without medical
27 assistance because of a special need for medical or rehabilitative care and who the
28 department has determined are hard-to-place children eligible for subsidy under
29 AS 25.23.190 - 25.23.210;

30 (11) persons who can be considered under 42 U.S.C. 1396a(e)(3) (Title
31 XIX, Social Security Act, Medical Assistance) to be individuals with respect to whom

1 a supplemental security income is being paid under 42 U.S.C. 1381 - 1383c (Title
2 XVI, Social Security Act) because they meet all of the following criteria:

3 (A) they are 18 years of age or younger and qualify as disabled
4 individuals under 42 U.S.C. 1382c(a) (Title XVI, Social Security Act);

5 (B) the department has determined that

6 (i) they require a level of care provided in a hospital,
7 nursing facility, or intermediate care facility for the mentally retarded;

8 (ii) it is appropriate to provide their care outside of an
9 institution; and

10 (iii) the estimated amount that would be spent for
11 medical assistance for their individual care outside an institution is not
12 greater than the estimated amount that would otherwise be expended
13 individually for medical assistance within an appropriate institution;

14 (C) if they were in a medical institution, they would be eligible
15 for medical assistance under other provisions of this chapter; and

16 (D) home and community-based services under a waiver
17 approved by the federal government are either not available to them under this
18 chapter or would be inappropriate for them;

19 (12) disabled persons, as described in 42 U.S.C.
20 1396a(a)(10)(A)(ii)(XIII), who are in families whose income, as determined under
21 applicable federal regulations or guidelines, is less than 250 percent of the official
22 poverty line applicable to a family of that size according to the United States
23 Department of Health and Human Services, and who, but for earnings in excess of the
24 limit established under 42 U.S.C. 1396d(q)(2)(B), would be considered to be
25 individuals with respect to whom a supplemental security income is being paid under
26 42 U.S.C. 1381 - 1383c; a person eligible for assistance under this paragraph who is
27 not eligible under another provision of this section shall pay a premium or other cost-
28 sharing charges according to a sliding fee scale that is based on income as established
29 by the department in regulations;

30 (13) persons under 19 years of age who are not covered under (a) of
31 this section and whose household income does not exceed 175 percent of the federal

1 poverty line as defined by the United States Department of Health and Human
2 Services and revised under 42 U.S.C. 9902(2);

3 (14) pregnant women who are not covered under (a) of this section and
4 whose household income does not exceed 175 percent of the federal poverty line as
5 defined by the United States Department of Health and Human Services and revised
6 under 42 U.S.C. 9902(2);

7 (15) persons who have been diagnosed with breast or cervical cancer
8 and who are eligible for coverage under 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII);

9 **(16) persons under 21 years of age who were in the custody of the**
10 **department under AS 47.10 or AS 47.14 and who were placed in out-of-home**
11 **care for a period of not less than six consecutive months on or after reaching 16**
12 **years of age.**

13 * **Sec. 8.** AS 47.10.080 is amended by adding a new subsection to read:

14 (v) A social worker employed by the department shall, not less than monthly,
15 conduct visits with a child committed to the custody of the department under (c) of
16 this section. The visits must be of sufficient substance and duration to address issues
17 pertinent to case planning and service delivery to ensure the child's safety,
18 permanency, and well-being. The majority of the visits conducted under this
19 subsection must be at the location of the child's current placement. In this subsection,
20 "visit" means face-to-face contact between social worker and child.

21 * **Sec. 9.** AS 47.10.990(3) is amended to read:

22 (3) "child" means a person **who is**

23 **(A)** under 18 years of age;

24 **(B)** [AND A PERSON] 19 years of age if that person was
25 under 18 years of age at the time that a proceeding under this chapter was
26 commenced; **and**

27 **(C) under 21 years of age if that person is living in out-of-**
28 **home care;**

29 * **Sec. 10.** AS 47.10.990 is amended by adding a new paragraph to read:

30 (33) "out-of-home care" means care and shelter provided by a foster
31 parent or relative other than a parent with whom the child is placed by the department.

1 * **Sec. 11.** AS 47.14.990 is amended by adding new paragraphs to read:

2 (13) "child" means a person under 18 years of age and a person under
3 21 years of age if the person is living in out-of-home care;

4 (14) "out-of-home care" has the meaning given in AS 47.10.990.

5 * **Sec. 12.** AS 47.18.310 is amended to read:

6 **Sec. 47.18.310. Program design.** The department, in coordination with local
7 public and private agencies, shall design the program as a continuation of the training
8 efforts related to independent living skills that were initiated when the state foster care
9 recipients were identified as being likely to remain in state foster care until reaching
10 21 years of age [THE AGE OF 18]. The program design must require that program
11 participants are directly involved in identifying the program activities that will prepare
12 them for independent living.

13 * **Sec. 13.** AS 47.18 is amended by adding a new section to read:

14 **Sec. 47.18.335. Monetary stipend.** The department shall provide to an
15 individual receiving services under the program a monthly stipend in an amount set by
16 the department that is equivalent to the daily rate provided to a licensed foster parent
17 for housing expenses. The stipend shall continue for a period of not less than six
18 months and not more than one year after the individual leaves foster care. The
19 department may adopt regulations to implement this section.