

CS FOR SENATE BILL NO. 105(EDC)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE EDUCATION COMMITTEE

Offered: 4/6/09

Referred: Health and Social Services, Finance

Sponsor(s): SENATORS DAVIS, Ellis

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 and medical assistance for a child placed in out-of-home care by the state;**
4 **relating to foster care; relating to children in need of aid; and relating to out-of-home**
5 **care transition to independent living."**

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) and (d) of this section, the governing body of a school
10 district shall comply with the requirements for continuing the public education of a
11 homeless student in the student's school of origin and for providing comparable
12 education and transportation services for the remainder of the current school year or, if
13 the student is attending school for a summer term, for the remainder of the summer

1 term, under 42 U.S.C. 11431 - 11435 (McKinney-Vento Homeless Education
2 Assistance Improvement Act of 2001), as those provisions existed on February 1,
3 2009.

4 (b) The requirements in (a) of this section do not apply if the student moves to
5 a school district other than the school district in which the student's school of origin is
6 located.

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

12 (d) A school district is required to comply with this section only

13 (1) if the legislature appropriates funds for the purpose; and

14 (2) to the extent possible using funds appropriated for the purpose.

15 (e) In this section,

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

22 (2) "school of origin" means the school in which the student was last
23 enrolled.

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

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

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

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

31 (2) was placed in out-of-home care for a period of not less than six

1 consecutive months on or after the person became 16 years of age; and

2 (3) is under 29 years of age.

3 (b) The amount of the waiver to which a person is entitled under this section is
4 the amount of unmet need for tuition, room, and board expenses, as determined by the
5 commission, after deducting funding for the school year from education loans, grants,
6 or scholarships received by a person eligible for a waiver.

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

10 (d) A state-supported educational institution in the state is required to provide
11 a waiver under (a) of this section only if the legislature appropriates funds for the
12 purpose of offsetting waivers under this section. If an appropriation is not sufficient to
13 fully offset waivers for each person entitled to a waiver under (a) of this section, the
14 institution may offer full or partial waivers to eligible applicants as funding permits
15 and at the discretion of the institution.

16 * **Sec. 3.** AS 14.43.160 is amended by adding a new paragraph to read:

17 (7) "out-of-home care" has the meaning given in AS 47.14.400.

18 * **Sec. 4.** AS 36.30.850(b)(42) is amended to read:

19 (42) grants and contracts with qualified entities for services under
20 AS 47.18.330 for the out-of-home [FOSTER] care transition program;

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

22 **Sec. 47.05.060. Purpose and policy relating to children.** The purpose of this
23 title as it relates to children is to secure for each child the care and guidance,
24 preferably in the child's own home, as well as an adequate education, that will serve
25 the moral, emotional, mental, intellectual, and physical welfare of the child and the
26 best interests of the community; to preserve and strengthen the child's family ties
27 unless efforts to preserve and strengthen the ties are likely to result in physical or
28 emotional damage to the child, removing the child from the custody of the parents
29 only as a last resort when the child's welfare or safety or the protection of the public
30 cannot be adequately safeguarded without removal; and, when the child is removed
31 from the family, to secure for the child adequate custody, education, and care and

1 adequate planning for permanent placement of the child.

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

3 **Sec. 47.05.065. Legislative findings related to children.** The legislature finds
4 that

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

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

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

12 (C) the right to determine where and with whom the child shall
13 live;

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

16 (E) the right to obtain representation for the child in legal
17 actions; and

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

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

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

29 (B) the state also recognizes that when a child is removed from
30 the home, visitation between the child and the child's parents or guardian and
31 family members reduces the trauma for the child and enhances the likelihood

1 that the child will be able to return home; therefore, whenever a child is
 2 removed from the parental home, the Department of Health and Social
 3 Services should encourage frequent, regular, and reasonable visitation of the
 4 child with the child's parent or guardian and family members;

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

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

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

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

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

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

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

24 (F) parents and guardians must actively participate in family
 25 support services so as to facilitate the child's being able to remain in the home;
 26 when children are removed from the home, the parents and guardians must
 27 actively participate in family support services to make return of their children
 28 to the home possible; **and**

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

31 (5) numerous studies establish that

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (11) persons who can be considered under 42 U.S.C. 1396a(e)(3) (Title
25 XIX, Social Security Act, Medical Assistance) to be individuals with respect to whom
26 a supplemental security income is being paid under 42 U.S.C. 1381 - 1383c (Title
27 XVI, Social Security Act) because they meet all of the following criteria:

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

30 (B) the department has determined that

31 (i) they require a level of care provided in a hospital,

1 nursing facility, or intermediate care facility for the mentally retarded;

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

4 (iii) the estimated amount that would be spent for
5 medical assistance for their individual care outside an institution is not
6 greater than the estimated amount that would otherwise be expended
7 individually for medical assistance within an appropriate institution;

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

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

13 (12) disabled persons, as described in 42 U.S.C.
14 1396a(a)(10)(A)(ii)(XIII), who are in families whose income, as determined under
15 applicable federal regulations or guidelines, is less than 250 percent of the official
16 poverty line applicable to a family of that size according to the United States
17 Department of Health and Human Services, and who, but for earnings in excess of the
18 limit established under 42 U.S.C. 1396d(q)(2)(B), would be considered to be
19 individuals with respect to whom a supplemental security income is being paid under
20 42 U.S.C. 1381 - 1383c; a person eligible for assistance under this paragraph who is
21 not eligible under another provision of this section shall pay a premium or other cost-
22 sharing charges according to a sliding fee scale that is based on income as established
23 by the department in regulations;

24 (13) persons under 19 years of age who are not covered under (a) of
25 this section and whose household income does not exceed 175 percent of the federal
26 poverty line as defined by the United States Department of Health and Human
27 Services and revised under 42 U.S.C. 9902(2);

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

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

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

7 * **Sec. 8.** AS 47.07.020 is amended by adding a new subsection to read:

8 (o) In this section, "out-of-home care" has the meaning given in AS 47.14.400.

9 * **Sec. 9.** AS 47.10.080(c) is amended to read:

10 (c) If the court finds that the child is a child in need of aid, the court shall

11 (1) order the child committed to the department for placement in an
12 appropriate setting for a period of time not to exceed two years or in any event not to
13 extend past the date the child becomes 19 years of age, except that the department or
14 the child's guardian ad litem may petition for and the court may grant in a hearing

15 (A) one-year extensions of commitment that do not extend
16 beyond the child's 19th birthday if the extension is in the best interests of the
17 child; and

18 (B) **one-year extensions of commitment that do not extend**
19 **beyond the child's 21st birthday** [AN ADDITIONAL ONE-YEAR PERIOD
20 OF STATE CUSTODY PAST 19 YEARS OF AGE] if the continued state
21 custody is in the best interests of the person and the person consents to it;

22 (2) order the child released to a parent, adult family member, or
23 guardian of the child or to another suitable person, and, in appropriate cases, order the
24 parent, adult family member, guardian, or other person to provide medical or other
25 care and treatment; if the court releases the child, it shall direct the department to
26 supervise the care and treatment given to the child, but the court may dispense with
27 the department's supervision if the court finds that the adult to whom the child is
28 released will adequately care for the child without supervision; the department's
29 supervision may not exceed two years or in any event extend past the date the child
30 reaches 19 years of age, except that the department or the child's guardian ad litem
31 may petition for and the court may grant in a hearing

1 (A) one-year extensions of supervision that do not extend
2 beyond the child's 19th birthday if the extensions are in the best interests of the
3 child; and

4 (B) an additional one-year period of supervision past 19 years
5 of age if the continued supervision is in the best interests of the person and the
6 person consents to it; or

7 (3) order, under the grounds specified in (o) of this section or
8 AS 47.10.088, the termination of parental rights and responsibilities of one or both
9 parents and commit the child to the custody of the department, and the department
10 shall report quarterly to the court on efforts being made to find a permanent placement
11 for the child.

12 * **Sec. 10.** AS 47.10.080 is amended by adding a new subsection to read:

13 (v) A social worker employed by or under contract with the department shall,
14 not less than monthly, conduct visits with a child committed to the custody of the
15 department under (c) of this section. The visits must be of sufficient substance and
16 duration to address issues pertinent to case planning and service delivery to ensure the
17 child's safety, permanency, and well-being. The majority of the visits conducted under
18 this subsection must be at the location of the child's current placement. Nothing in this
19 paragraph creates a private right of action against the department or the department's
20 contractors. In this subsection, "visit" means face-to-face contact between social
21 worker and child.

22 * **Sec. 11.** AS 47.10.990(3) is amended to read:

23 (3) "child" means a person who is
24 (A) under 18 years of age;
25 (B) [AND A PERSON] 19 years of age if that person was
26 under 18 years of age at the time that a proceeding under this chapter was
27 commenced; and
28 (C) under 21 years of age if that person is living in out-of-
29 home care;

30 * **Sec. 12.** AS 47.10.990 is amended by adding a new paragraph to read:

31 (33) "out-of-home care" has the meaning given in AS 47.14.400.

1 * **Sec. 13.** AS 47.18.300(a) is amended to read:

2 (a) The department, in coordination with local public and private agencies,
3 shall design, develop, and implement an out-of-home care [A FOSTER CARE]
4 transition program to provide support and services to individuals who

5 (1) reach or have reached the age of 16 or older while in state custody
6 and placed in out-of-home [FOSTER] care and have not yet reached 23 years of age;
7 and

8 (2) meet other eligibility criteria established by the department under
9 (b) of this section.

10 * **Sec. 14.** AS 47.18.310 is amended to read:

11 **Sec. 47.18.310. Program design.** The department, in coordination with local
12 public and private agencies, shall design the program as a continuation of the training
13 efforts related to independent living skills that were initiated for a child in state
14 custody who was placed in out-of-home care and [WHEN THE STATE FOSTER
15 CARE RECIPIENTS WERE] identified as being likely to remain in out-of-home
16 [STATE FOSTER] care until reaching not less than the age of 18. The program
17 design must require that program participants are directly involved in identifying the
18 program activities that will prepare them for independent living.

19 * **Sec. 15.** AS 47.18.320(a) is amended to read:

20 (a) Subject to the availability of an appropriation made for the purposes of
21 AS 47.18.300 - 47.18.390, the program may provide

22 (1) education and vocational training;

23 (2) assistance in obtaining basic education and training;

24 (3) career and employment services;

25 (4) training in basic life skills;

26 (5) housing and utility assistance;

27 (6) mentoring and counseling; and

28 (7) other appropriate services to complement the efforts of former state
29 foster care recipients or a child who was in state custody and placed in out-of-
30 home care to achieve self-sufficiency.

31 * **Sec. 16.** AS 47.18 is amended by adding a new section to read:

1 **Sec. 47.18.335. Monetary living expense stipend.** The department shall
2 provide to an individual eligible for services under the program who has left out-of-
3 home care a monthly stipend in an amount set by the department that is not more than
4 the daily rate provided to a licensed foster parent for necessary living expenses. The
5 stipend shall continue for a period of not more than one year and shall end before the
6 individual is 23 years of age. The department may adopt regulations to implement this
7 section.

8 * **Sec. 17.** AS 47.18.390(1) is amended to read:

9 (1) "program" means the **out-of-home** [FOSTER] care transition
10 program authorized under AS 47.18.300 - 47.18.390;

11 * **Sec. 18.** AS 47.18.390(3) is repealed and reenacted to read:

12 (3) "out-of-home care" has the meaning given in AS 47.14.400.