

**CS FOR SENATE BILL NO. 105(HSS)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 4/14/09

Referred: 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 seven school days after notification of the transfer.  
10 The 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 institution, after deducting funding for the school year from education loans, grants, or  
6 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 (e) In this section, "out-of-home care" has the meaning given in AS 47.14.400.

17 \* **Sec. 3.** AS 36.30.850(b)(42) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (B) the state also recognizes that when a child is removed from  
29 the home, visitation between the child and the child's parents or guardian and  
30 family members reduces the trauma for the child and enhances the likelihood  
31 that the child will be able to return home; therefore, whenever a child is

1 removed from the parental home, the Department of Health and Social  
 2 Services should encourage frequent, regular, and reasonable visitation of the  
 3 child with the child's parent or guardian and family members;

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

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

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

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

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

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

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

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

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

30 (5) numerous studies establish that

31 (A) children undergo a critical attachment process before the

1 time they reach six years of age;

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

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

10 \* **Sec. 6.** AS 47.07.020(b) is amended to read:

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

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

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

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

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

31 (5) persons under 21 years of age who are in an institution designated

1 as an intermediate care facility for the mentally retarded and who are financially  
 2 eligible as determined by the standards of the federal program designated as the  
 3 successor to the aid to families with dependent children program;

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

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

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

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

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

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

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

29 (B) the department has determined that

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

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

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

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

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

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

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

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

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

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

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

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

7           \* **Sec. 8.** AS 47.10.080(c) is amended to read:

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

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

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

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

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

30                                   (A) one-year extensions of supervision that do not extend  
 31                   beyond the child's 19th birthday if the extensions are in the best interests of the

1 child; and

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

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

10 \* **Sec. 9.** AS 47.10.080 is amended by adding a new subsection to read:

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

20 \* **Sec. 10.** AS 47.10.990(3) is amended to read:

21 (3) "child" means a person who is

22 (A) under 18 years of age;

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

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

28 \* **Sec. 11.** AS 47.10.990 is amended by adding a new paragraph to read:

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

30 \* **Sec. 12.** AS 47.18.300(a) is amended to read:

31 (a) The department, in coordination with local public and private agencies,

1 shall design, develop, and implement **an out-of-home care** [A FOSTER CARE]  
 2 transition program to provide support and services to individuals who

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

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

8 \* **Sec. 13.** AS 47.18.310 is amended to read:

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

17 \* **Sec. 14.** AS 47.18.320(a) is amended to read:

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

20 (1) education and vocational training;

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

22 (3) career and employment services;

23 (4) training in basic life skills;

24 (5) housing and utility assistance;

25 (6) mentoring and counseling; and

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

29 \* **Sec. 15.** AS 47.18 is amended by adding a new section to read:

30 **Sec. 47.18.335. Monetary living expense stipend.** (a) The department shall  
 31 provide a monthly monetary living expense stipend for a period not to exceed nine

1 months in an amount described in (b) of this section to an individual who

2 (1) has left out-of-home care at age 18 or older;

3 (2) is participating in services in the program; and

4 (3) has monthly contact with a social worker involved in the program.

5 (b) A stipend provided under this section shall be in an amount necessary to  
6 meet an eligible individual's living expense as determined by the department. The  
7 amount may not exceed

8 (1) for the first six months of eligibility, the daily rate provided to a  
9 licensed foster parent; or

10 (2) for a period not to exceed three additional months during the period  
11 that follows the first six months of eligibility, half of the daily rate provided to a  
12 licensed foster parent.

13 (c) The department shall pay the stipend provided under this section until the  
14 later of the date that the individual

15 (1) reaches 21 years of age; or

16 (2) has left out-of-home care for six months.

17 (d) The department may adopt regulations to implement this section.

18 \* **Sec. 16.** AS 47.18.390(1) is amended to read:

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

21 \* **Sec. 17.** AS 47.18.390(3) is repealed and reenacted to read:

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