

CS FOR HOUSE BILL NO. 151(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 3/24/17

Referred: Finance

Sponsor(s): REPRESENTATIVES GARA, Spohnholz, Drummond, Parish, Fansler, Tuck, Grenn, Ortiz

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the duties of the Department of Health and Social Services; relating**
2 **to training and workload standards for employees of the Department of Health and**
3 **Social Services; relating to foster care home licensing; relating to placement of a child in**
4 **need of aid; relating to the rights and responsibilities of foster parents; relating to**
5 **subsidies for adoption or guardianship of a child in need of aid; requiring the**
6 **Department of Health and Social Services to provide information to a child or person**
7 **released from the department's custody; and providing for an effective date."**

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

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

11 SHORT TITLE. This Act may be known as the Children Deserve a Loving Home Act.

12 * **Sec. 2.** AS 25.23.210(b) is amended to read:

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

1 (1) paid for a specified length of time not to extend after the child's
2 21st [18TH] birthday; and

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

6 * **Sec. 3.** AS 47.05.065 is amended to read:

7 **Sec. 47.05.065. Legislative findings related to children.** The legislature finds
8 that

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

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

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

16 (C) the right to determine where and with whom the child shall
17 live;

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

20 (E) the right to obtain representation for the child in legal
21 actions; and

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

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

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

1 safely and permanently; and

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

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

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

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

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

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

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

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

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

1 to the home possible; **and**

2 **(G) to the extent practicable, the Department of Health and**
 3 **Social Services should enable a child's contact with previous out-of-home**
 4 **caregivers when appropriate and in the best interests of the child;**

5 (5) numerous studies establish that

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

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

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

16 * **Sec. 4.** AS 47.10.080(s) is amended to read:

17 (s) The department may transfer a child, in the child's best interests, from one
 18 placement setting to another, and the child, the child's parents or guardian, the child's
 19 foster parents or out-of-home caregiver, the child's guardian ad litem, the child's
 20 attorney, and the child's tribe are entitled to advance notice of a nonemergency
 21 transfer. A party opposed to the proposed transfer may request a hearing and must
 22 prove by clear and convincing evidence that the transfer would be contrary to the best
 23 interests of the child for the court to deny the transfer. A foster parent or out-of-home
 24 caregiver who requests a nonemergency change in placement of the child shall provide
 25 the department with reasonable advance notice of the requested change. When the
 26 department transfers a child from one out-of-home placement to another, the
 27 department shall search for an appropriate placement with an adult family member or
 28 a family friend who meets the foster care licensing requirements established by the
 29 department. **A supervisor at the department shall certify in writing in the case file**
 30 **whether the department has searched for an appropriate placement with an**
 31 **adult family member or family friend. If the department has not complied with**

1 **the search requirements under this subsection, the supervisor shall work to**
 2 **ensure that the department completes the search in the shortest time feasible.**

3 * **Sec. 5.** AS 47.10.084 is amended by adding a new subsection to read:

4 (d) When the child is placed in foster care, the foster parent has the right and
 5 responsibility to use a reasonable and prudent parent standard to make decisions
 6 relating to the child. The foster parent may make decisions under (a) or (b) of this
 7 section that include decisions relating to the child's participation in age-appropriate or
 8 developmentally appropriate activities, including travel, sports, field trips, overnight
 9 activities, and extracurricular, enrichment, cultural, and social activities. The
 10 department shall provide foster parents with training regarding the reasonable and
 11 prudent parent standard. In this subsection, "reasonable and prudent parent standard"
 12 means a standard characterized by careful and sensible decisions to maintain the
 13 health, safety, and best interests of the child while encouraging the emotional and
 14 developmental growth of the child.

15 * **Sec. 6.** AS 47.10.086 is amended by adding a new subsection to read:

16 (h) The department shall engage a child who is 14 years of age or older in the
 17 development or revision of a case plan, permanency goal, or alternative permanency
 18 plan for the child. The department shall also allow the child to select not more than
 19 two adults to participate in the development or revision of the plan in addition to the
 20 child's foster parents or department employees who are supervising the care of the
 21 child. The department may reject an adult selected by the child if the department has
 22 good cause to believe that the adult will not act in the best interests of the child. If the
 23 department rejects an adult, the child may select another adult. The child may
 24 designate one of the adults to be the child's advisor, and the advisor may advocate for
 25 the child.

26 * **Sec. 7.** AS 47.10.093(b) is amended to read:

27 (b) A state or municipal agency or employee shall disclose appropriate
 28 confidential information regarding a case to

29 (1) a guardian ad litem appointed by the court;

30 (2) a person or an agency requested by the department or the child's

31 legal custodian to provide consultation or services for a child who is subject to the

1 jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of
2 the consultation or services;

3 (3) an out-of-home care provider as necessary to enable the out-of-
4 home care provider to provide appropriate care to the child, to protect the safety of the
5 child, and to protect the safety and property of family members and visitors of the out-
6 of-home care provider;

7 (4) a school official as necessary to enable the school to provide
8 appropriate counseling and support services to a child who is the subject of the case, to
9 protect the safety of the child, and to protect the safety of school students and staff;

10 (5) a governmental agency as necessary to obtain that agency's
11 assistance for the department in its investigation or to obtain physical custody of a
12 child;

13 (6) a law enforcement agency of this state or another jurisdiction as
14 necessary for the protection of any child or for actions by that agency to protect the
15 public safety;

16 (7) a member of a multidisciplinary child protection team created
17 under AS 47.14.300 as necessary for the performance of the member's duties;

18 (8) the state medical examiner under AS 12.65 as necessary for the
19 performance of the duties of the state medical examiner;

20 (9) a person who has made a report of harm as required by
21 AS 47.17.020 to inform the person that the investigation was completed and of action
22 taken to protect the child who was the subject of the report;

23 (10) the child support services agency established in AS 25.27.010 as
24 necessary to establish and collect child support for a child who is a child in need of aid
25 under this chapter;

26 (11) a parent, guardian, or caregiver of a child or an entity responsible
27 for ensuring the safety of children as necessary to protect the safety of a child;

28 (12) a review panel established by the department for the purpose of
29 reviewing the actions taken by the department in a specific case;

30 (13) the University of Alaska under the Alaska higher education
31 savings program for children established under AS 47.14.400, but only to the extent

1 that the information is necessary to support the program and only if the information
2 released is maintained as a confidential record by the University of Alaska;

3 (14) a child placement agency licensed under AS 47.32 as necessary to
4 provide services for a child who is the subject of the case; [AND]

5 (15) a state or municipal agency of this state or another jurisdiction
6 that is responsible for delinquent minors, as may be necessary for the administration of
7 services, protection, rehabilitation, or supervision of a child or for actions by the
8 agency to protect the public safety; however, a court may review an objection made to
9 a disclosure under this paragraph; the person objecting to the disclosure bears the
10 burden of establishing by a preponderance of the evidence that disclosure is not in the
11 child's best interest; **and**

12 **(16) a sibling of a child who is the subject of the case to allow the**
13 **siblings to contact each other if it is in the best interests of the child to maintain**
14 **contact; in this paragraph, "sibling" means an adult or minor who is related to**
15 **the child who is the subject of the case by blood, adoption, or marriage as a child**
16 **of one or both of the parents of the child who is the subject of the case; a sibling**
17 **who is adopted by a person other than the parent of the child who is the subject**
18 **of the case remains a sibling of the child.**

19 * **Sec. 8.** AS 47.10.142(i) is amended to read:

20 (i) When the department takes emergency custody of a child under this section
21 or a court orders a child committed to the department for temporary placement under
22 this section, the department shall, to the extent feasible and consistent with the best
23 interests of the child, place the child according to the criteria specified under
24 AS 47.14.100(e). **A supervisor at the department shall certify in writing in the**
25 **case file whether the department has searched for an appropriate placement with**
26 **an adult family member or family friend. If the department has not complied**
27 **with the search requirements under this subsection, the supervisor shall work to**
28 **ensure that the department completes the search in the shortest time feasible if it**
29 **is consistent with the best interests of the child.**

30 * **Sec. 9.** AS 47.14.100(d) is amended to read:

31 (d) In addition to money paid for the maintenance of foster children under (b)

1 of this section, **for a child who is under 21 years of age**, the department

2 (1) shall pay the costs of caring for **a** foster **child** [CHILDREN] with **a**
 3 physical or mental **disability** [DISABILITIES], including the additional costs of
 4 medical care, habilitative and rehabilitative treatment, services and equipment, and
 5 special clothing, and the indirect costs of medical care, including child care and
 6 transportation expenses;

7 (2) may pay for respite care; in this paragraph, "respite care" means
 8 child care for the purpose of providing temporary relief from the stresses of caring for
 9 a foster child; and

10 (3) may pay a subsidized guardianship payment under AS 25.23.210
 11 when a foster child's foster parents or other persons approved by the department
 12 become court-appointed legal guardians of the child.

13 * **Sec. 10.** AS 47.14.100(e) is amended to read:

14 (e) When a child is removed from a parent's home, the department shall
 15 **search for an appropriate placement with an adult family member or family**
 16 **friend. A supervisor at the department shall certify in writing in the case file**
 17 **whether the department has searched for an appropriate placement with an**
 18 **adult family member or family friend. If the department has not complied with**
 19 **the search requirements under this subsection, the supervisor shall work to**
 20 **ensure that the department completes the search in the shortest time feasible. The**
 21 **department shall** place the child, in the absence of clear and convincing evidence of
 22 good cause to the contrary,

23 (1) in the least restrictive setting that most closely approximates a
 24 family and that meets the child's special needs, if any;

25 (2) within reasonable proximity to the child's home, taking into
 26 account any special needs of the child and the preferences of the child or parent;

27 (3) with, in the following order of preference,

28 (A) an adult family member;

29 (B) a family friend who meets the foster care licensing
 30 requirements established by the department;

31 (C) a licensed foster home that is not an adult family member

1 or family friend;

2 (D) an institution for children that has a program suitable to
3 meet the child's needs.

4 * **Sec. 11.** AS 47.14.100(i) is amended to read:

5 (i) A child may not be placed with an out-of-home care provider if the
6 department determines that the child can remain safely at home with **an adult family**
7 **member** [ONE PARENT] or guardian **who lives with the child**. In this subsection,
8 "out-of-home care provider" means an agency or person, other than the child's legal
9 parents, with whom a child who is in the custody of the state under
10 AS 47.10.080(c)(1) or (3), 47.10.142, or (c) of this section is currently placed; "agency
11 or person" includes a foster parent, a relative other than a parent, a person who has
12 petitioned for adoption of the child, and a residential child care facility.

13 * **Sec. 12.** AS 47.14.100(r) is amended to read:

14 (r) The department shall make reasonable efforts to place siblings in the same
15 placement if the siblings are residing in the same home when taken into the custody of
16 the department. If siblings are not placed together after reasonable efforts have been
17 made, the case supervisor for the division with responsibility over the custody of
18 children shall document in the file the efforts that were made and the reason separating
19 the siblings for placement purposes is in the best interest of the children. **If it is in the**
20 **best interests of the children to maintain contact, the department shall provide**
21 **each sibling with contact information for the other sibling and encourage the**
22 **children's caregivers to provide opportunities for contact between the siblings.** In
23 this subsection, "sibling" means two or more persons who are related by blood,
24 adoption, or marriage as a child of one or both parents.

25 * **Sec. 13.** AS 47.14 is amended by adding a new section to read:

26 **Sec. 47.14.112. Training and workload standards; report to legislature.** (a)

27 The department shall implement workload standards and a training program for
28 employees who supervise the care of children committed to the supervision or custody
29 of the department under AS 47.10. Except as provided under (b) of this section, the
30 department shall prepare a staffing report if the department is unable

31 (1) to employ the number of qualified employees necessary to ensure

1 that

2 (A) the department reasonably and safely minimizes the time a
3 child is not in a permanent living arrangement or under a permanent
4 guardianship;

5 (B) a child is not removed from the child's home when it is
6 possible and in the child's best interest for the department to work with the
7 child's family to prevent the removal of the child from the child's home;

8 (C) each child is placed in a permanent home not more than 24
9 months after the date the child is first removed from the child's home;

10 (2) to meet best practices standards set by the department requiring the
11 employment of mentors for employees who supervise the care of children committed
12 to the supervision or custody of the department under AS 47.10;

13 (3) for a new employee who supervises the care of a child committed
14 to the supervision or custody of the department under AS 47.10, to

15 (A) provide a minimum of six weeks of training unless the
16 department finds that the new employee has sufficient experience to justify a
17 shorter training period;

18 (B) limit the employee's workload as follows:

19 (i) before the beginning of an employee's fourth month
20 of work with the department, the employee may supervise not more
21 than six families;

22 (ii) after the beginning of the employee's fourth month
23 of work but before the end of the employee's sixth month of work with
24 the department, the employee may supervise not more than 12 families;

25 (iii) when an employee supervises families in a region
26 where travel distances negatively affect the employee's ability to
27 supervise families and the employee has worked for the department for
28 less than 12 months, the employee may not supervise the maximum
29 number of families provided under (i) and (ii) of this subparagraph.

30 (b) If a staffing report is required under this section, the department shall
31 explain in the staffing report why the department is not able to meet the standards, the

1 amount of funding that would be necessary to meet the standards, and the effects on a
 2 child and the child's family of not meeting the standards. The department shall include
 3 the staffing report in the annual report to the legislature required under AS 18.05.020.

4 (c) The department is not required to submit a staffing report under this
 5 section if the department is unable to maintain adequate staffing levels because
 6 qualified applicants are not available and the department is actively recruiting
 7 qualified applicants.

8 * **Sec. 14.** AS 47.14.115 is amended by adding a new subsection to read:

9 (b) If the department determines that it is in the best interests of a child in the
 10 department's custody to place the child with an adult family member who does not
 11 have a foster care home license under AS 47.32, the department shall assist the adult
 12 family member in obtaining a license, including assisting the adult family member
 13 with obtaining any variances necessary to obtain the license, so that the family
 14 member is eligible for payments under AS 47.14.100(b) and (d).

15 * **Sec. 15.** AS 47.18.320 is amended by adding a new subsection to read:

16 (d) When an individual 16 years of age or older who has been in state custody
 17 under AS 47.10 for at least six months is released from state custody, the department
 18 shall, in addition to any training, services, and assistance provided under (a) - (c) of
 19 this section, provide the individual with or assist the individual with obtaining the
 20 individual's

21 (1) birth certificate; the birth certificate may be an official or certified
 22 copy;

23 (2) social security card;

24 (3) health insurance information;

25 (4) medical records;

26 (5) driver's license or identification card; and

27 (6) certificate of degree of Indian or Alaska Native blood, if
 28 applicable.

29 * **Sec. 16.** AS 47.32.032 is amended by adding a new subsection to read:

30 (c) To the extent feasible, the department shall approve or deny a foster care
 31 home license, including a request for a variance under this section, not more than 45

1 days after the date the department receives the application for a foster care home
 2 license. If it is not feasible to approve or deny a foster care home license not more than
 3 45 days after receiving the application, a supervisory-level employee may authorize a
 4 longer period of time for the decision, but the period must be the shortest period
 5 feasible.

6 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
 7 read:

8 APPLICABILITY. (a) Sections 3 - 8 and 10 - 16 of this Act apply to a child in the
 9 custody or under the supervision of the Department of Health and Social Services under
 10 AS 47.10 on or after the effective date of secs. 3 - 8 and 10 - 16 of this Act.

11 (b) Sections 2 and 9 of this Act apply to a person who is eligible for a subsidy or
 12 payment for the care of a child under AS 25.23.190 - 25.23.240 or AS 47.14.100 on or after
 13 the effective date of secs. 2 and 9 of this Act, including a person who was ineligible for a
 14 payment under AS 25.23.190 - 25.23.240 or AS 47.14.100 before the effective date of secs. 2
 15 and 9 of this Act solely because the child turned 18.

16 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
 17 read:

18 TRANSITION: REGULATIONS. The Department of Health and Social Services may
 19 adopt regulations necessary to implement the changes made by this Act. The regulations take
 20 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
 21 law implemented by the regulation.

22 * **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 TRANSITION: IMPLEMENTATION OF DEPARTMENT OF HEALTH AND
 25 SOCIAL SERVICES STAFFING AND TRAINING STANDARDS. The Department of
 26 Health and Social Services shall implement all of the provisions of this Act as expeditiously
 27 as possible, and, not later than

28 (1) one year after the effective date of sec. 13 of this Act, shall adopt training
 29 regulations necessary to meet the standards in AS 47.14.112(a)(3)(A), added by sec. 13 of this
 30 Act;

31 (2) two years after the effective date of sec. 13 of this Act, hire the staff

1 necessary to meet the workload standards in AS 47.12.112(a)(1), (2), and (3)(B), added by
2 sec. 13 of this Act;

3 (3) three years after the effective date of secs. 1 - 12 and 14 - 16 of this Act,
4 shall implement the changes made by secs. 1 - 12 and 14 - 16 of this Act.

5 * **Sec. 20.** Section 18 of this Act takes effect immediately under AS 01.10.070(c).