

CS FOR HOUSE BILL NO. 151(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/16/17

Referred: Today's Calendar

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 and providing immunity from damages related to those standards;**
4 **relating to foster care home licensing; relating to civil and criminal history background**
5 **checks for foster care licensing and payments; relating to placement of a child in need of**
6 **aid; relating to the rights and responsibilities of foster parents; requiring the**
7 **Department of Health and Social Services to provide information to a child or person**
8 **released from the department's custody; and providing for an effective date."**

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

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

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

1 * **Sec. 2.** 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) to the extent practicable, the Department of Health and**
29 **Social Services should enable a child's contact with previous out-of-home**
30 **caregivers when appropriate and in the best interests of the child;**

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. 3.** AS 47.05.310(c) is amended to read:

12 (c) **Except as provided in (l) of this section, the** [THE] department may not
13 issue or renew a license or certification for an entity if an individual is applying for a
14 license, license renewal, certification, or certification renewal for the entity and that

15 (1) individual has been found by a court or agency of this or another
16 jurisdiction to have neglected, abused, or exploited a child or vulnerable adult under
17 AS 47.10, AS 47.24, or AS 47.62 or a substantially similar provision in another
18 jurisdiction, or to have committed medical assistance fraud under AS 47.05.210 or a
19 substantially similar provision in another jurisdiction; or

20 (2) individual's name appears on the centralized registry established
21 under AS 47.05.330 or a similar registry of this state or another jurisdiction.

22 * **Sec. 4.** AS 47.05.310(i) is amended to read:

23 (i) **Except as provided in (l) of this section, for** [FOR] purposes of (b) and
24 (c) of this section, in place of nonissuance or nonrenewal of a license or certification,
25 an entity or individual service provider that is not required to be licensed or certified
26 by the department or a person wishing to become an entity or individual service
27 provider that is not required to be licensed or certified by the department is instead
28 ineligible to receive a payment, in whole or in part, from the department to provide for
29 the health, safety, and welfare of persons who are served by the programs
30 administered by the department if the entity, individual service provider, or person

31 (1) is in violation of (a) of this section or would be in violation based

1 on information received by the department as part of an application, approval, or
2 selection process;

3 (2) has been found by a court or agency of this or another jurisdiction
4 to have neglected, abused, or exploited a child or vulnerable adult under AS 47.10,
5 AS 47.24, or AS 47.62 or a substantially similar provision in another jurisdiction, or to
6 have committed medical assistance fraud under AS 47.05.210 or a substantially
7 similar provision in another jurisdiction; or

8 (3) appears on the centralized registry established under AS 47.05.330
9 or a similar registry of this state or another jurisdiction.

10 * **Sec. 5.** AS 47.05.310(k) is amended by adding new paragraphs to read:

11 (4) "adult family member" has the meaning given in AS 47.10.990;

12 (5) "foster home" has the meaning given in AS 47.32.900.

13 * **Sec. 6.** AS 47.05.310 is amended by adding a new subsection to read:

14 (l) The department may issue or renew a foster home license under AS 47.32
15 or provide payments under AS 47.14.100(b) or (d) to an entity, individual service
16 provider, or person if the applicant or a person who resides in the home is barred from
17 licensure or payment under (c), (i)(2), or (i)(3) of this section and

18 (1) a person in the home is an adult family member or family friend of
19 a child in the custody or supervision of the state under AS 47.10;

20 (2) the department finds that placing the child with the entity,
21 individual service provider, or person is in the best interests of the child; and

22 (3) the conduct that is the basis of the finding under (c), (i)(2), or (i)(3)
23 of this section occurred at least 10 years before the date the department receives the
24 application for licensure or renewal or makes a payment to the entity, individual
25 service provider, or person.

26 * **Sec. 7.** AS 47.10.080(s) is amended to read:

27 (s) The department may transfer a child, in the child's best interests, from one
28 placement setting to another, and the child, the child's parents or guardian, the child's
29 foster parents or out-of-home caregiver, the child's guardian ad litem, the child's
30 attorney, and the child's tribe are entitled to advance notice of a nonemergency
31 transfer. A party opposed to the proposed transfer may request a hearing and must

1 prove by clear and convincing evidence that the transfer would be contrary to the best
 2 interests of the child for the court to deny the transfer. A foster parent or out-of-home
 3 caregiver who requests a nonemergency change in placement of the child shall provide
 4 the department with reasonable advance notice of the requested change. When the
 5 department transfers a child from one out-of-home placement to another, the
 6 department shall search for an appropriate placement with an adult family member or
 7 a family friend who meets the foster care licensing requirements established by the
 8 department. **A supervisor at the department shall certify in writing in the case file**
 9 **whether the department has searched for an appropriate placement with an**
 10 **adult family member or family friend. If the department has not complied with**
 11 **the search requirements under this subsection, the supervisor shall work to**
 12 **ensure that the department completes the search in the shortest time feasible.**

13 * **Sec. 8.** AS 47.10.084 is amended by adding a new subsection to read:

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

25 * **Sec. 9.** AS 47.10.086 is amended by adding a new subsection to read:

26 (h) The department shall engage a child who is 14 years of age or older in the
 27 development or revision of a case plan, permanency goal, or alternative permanency
 28 plan for the child. The department shall also allow the child to select not more than
 29 two adults to participate in the development or revision of the plan in addition to the
 30 child's foster parents or department employees who are supervising the care of the
 31 child. The department may reject an adult selected by the child if the department has

1 good cause to believe that the adult will not act in the best interests of the child. If the
2 department rejects an adult, the child may select another adult. The child may
3 designate one of the adults to be the child's advisor, and the advisor may advocate for
4 the child.

5 * **Sec. 10.** AS 47.10.093(b) is amended to read:

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

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

9 (2) a person or an agency requested by the department or the child's
10 legal custodian to provide consultation or services for a child who is subject to the
11 jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of
12 the consultation or services;

13 (3) an out-of-home care provider as necessary to enable the out-of-
14 home care provider to provide appropriate care to the child, to protect the safety of the
15 child, and to protect the safety and property of family members and visitors of the out-
16 of-home care provider;

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

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

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

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

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

30 (9) a person who has made a report of harm as required by
31 AS 47.17.020 to inform the person that the investigation was completed and of action

1 taken to protect the child who was the subject of the report;

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

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

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

9 (13) the University of Alaska under the Alaska higher education
10 savings program for children established under AS 47.14.400, but only to the extent
11 that the information is necessary to support the program and only if the information
12 released is maintained as a confidential record by the University of Alaska;

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

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

22 **(16) a sibling of a child who is the subject of the case to allow the**
23 **siblings to contact each other if it is in the best interests of the child to maintain**
24 **contact; in this paragraph, "sibling" means an adult or minor who is related to**
25 **the child who is the subject of the case by blood, adoption, or marriage as a child**
26 **of one or both of the parents of the child who is the subject of the case; a sibling**
27 **who is adopted by a person other than the parent of the child who is the subject**
28 **of the case remains a sibling of the child.**

29 * **Sec. 11.** AS 47.10.142(i) is amended to read:

30 (i) When the department takes emergency custody of a child under this section
31 or a court orders a child committed to the department for temporary placement under

1 this section, the department shall, to the extent feasible and consistent with the best
 2 interests of the child, place the child according to the criteria specified under
 3 AS 47.14.100(e). **A supervisor at the department shall certify in writing in the**
 4 **case file whether the department has searched for an appropriate placement with**
 5 **an adult family member or family friend. If the department has not complied**
 6 **with the search requirements under this subsection, the supervisor shall work to**
 7 **ensure that the department completes the search in the shortest time feasible if it**
 8 **is consistent with the best interests of the child.**

9 * **Sec. 12.** AS 47.14.100(e) is amended to read:

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

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

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

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

24 (A) an adult family member;

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

27 (C) a licensed foster home that is not an adult family member
 28 or family friend;

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

31 * **Sec. 13.** AS 47.14.100(i) is amended to read:

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

9 * **Sec. 14.** AS 47.14.100(r) is amended to read:

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

21 * **Sec. 15.** AS 47.14 is amended by adding a new section to read:

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

23 The department shall implement workload standards and a training program for
 24 employees who supervise the care of children committed to the supervision or custody
 25 of the department under AS 47.10, work with families to prevent the removal of a
 26 child from the child's home under AS 47.10, or investigate reports of harm under
 27 AS 47.17. Except as provided under (b) of this section, the department shall prepare a
 28 staffing report if the department is unable

29 (1) to employ the number of qualified employees necessary to ensure
 30 that

31 (A) the department reasonably and safely minimizes the time a

1 child is not in a permanent living arrangement or under a permanent
2 guardianship;

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

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

8 (2) to meet best practices standards set by the department requiring the
9 employment of mentors for employees who supervise the care of children committed
10 to the supervision or custody of the department under AS 47.10, work with families to
11 prevent the removal of a child from the child's home under AS 47.10, or investigate
12 reports of harm under AS 47.17;

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, works with families
15 to prevent the removal of a child from the child's home under AS 47.10, or
16 investigates reports of harm under AS 47.17, to

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

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

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

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

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

1 (4) for an employee, other than a new employee, who supervises the
 2 care of children committed to the supervision or custody of the department under
 3 AS 47.10, works with families to prevent the removal of a child from the child's home
 4 under AS 47.10, or investigates reports of harm under AS 47.17, to ensure that the
 5 average statewide caseload is not more than 13 families for each worker.

6 (b) If a staffing report is required under this section, the department shall
 7 explain in the staffing report why the department is not able to meet the standards, the
 8 amount of funding that would be necessary to meet the standards, and the effects on a
 9 child and the child's family of not meeting the standards. The department shall include
 10 the staffing report in the annual report to the legislature required under AS 18.05.020.

11 (c) Notwithstanding any other provision of this section, the department is
 12 immune from suit under this section if the department was unable to meet the
 13 workload standards and adjusted workload standards because of a lack of sufficient
 14 appropriations or because the department's efforts to recruit or retain employees did
 15 not result in an adequate number of qualified applicants to meet the workload
 16 standards, as outlined in the staffing report.

17 * **Sec. 16.** AS 47.14.115 is amended by adding a new subsection to read:

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

24 * **Sec. 17.** AS 47.18.320 is amended by adding a new subsection to read:

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

30 (1) birth certificate; the birth certificate may be an official or certified
 31 copy;

- 1 (2) social security card;
 2 (3) health insurance information;
 3 (4) medical records;
 4 (5) driver's license or identification card; and
 5 (6) certificate of degree of Indian or Alaska Native blood, if
 6 applicable.

7 * **Sec. 18.** AS 47.32.032 is amended by adding a new subsection to read:

8 (c) To the extent feasible, the department shall approve or deny a foster care
 9 home license, including a request for a variance under this section, not more than 45
 10 days after the date the department receives the application for a foster care home
 11 license. If it is not feasible to approve or deny a foster care home license not more than
 12 45 days after receiving the application, a supervisory-level employee may authorize a
 13 longer period of time for the decision, but the period must be the shortest period
 14 feasible.

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

17 **APPLICABILITY.** This Act applies to a child in the custody or under the supervision
 18 of the Department of Health and Social Services under AS 47.10 on or after the effective date
 19 of secs. 1 - 19 and 21 of this Act.

20 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

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

26 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to
 27 read:

28 **TRANSITION: IMPLEMENTATION.** The Department of Health and Social Services
 29 shall implement all of the provisions of this Act as expeditiously as possible. Notwithstanding
 30 this requirement, the Department of Health and Social Services shall, not later than

- 31 (1) one year after the effective date of secs. 7 - 9, 11 - 13, and 15 of this Act,

1 implement the changes made by AS 47.10.080(s), as amended by sec. 7 of this Act,
2 AS 47.10.084(d), enacted by sec. 8 of this Act, AS 47.10.086(h), enacted by sec. 9 of this Act,
3 AS 47.10.142(i), as amended by sec. 11 of this Act, AS 47.14.100(e), as amended by sec. 12
4 of this Act, AS 47.14.100(i), as amended by sec. 13 of this Act, and AS 47.14.112(a)(3)(A),
5 enacted by sec. 15 of this Act;

6 (2) three years after the effective date of secs. 2 - 6, 10, and 14 - 18 of this
7 Act, implement the changes made by AS 47.05.065, as amended by sec. 2 of this Act,
8 AS 47.05.310(c), as amended by sec. 3 of this Act, AS 47.05.310(i), as amended by sec. 4 of
9 this Act, AS 47.05.310(k), as amended by sec. 5 of this Act, AS 47.05.310(l), enacted by sec.
10 6 of this Act, AS 47.10.093(b), as amended by sec. 10 of this Act, AS 47.14.100(r), as
11 amended by sec. 14 of this Act, AS 47.14.112(a)(1), (a)(2), (a)(3)(B), (b), and (c), enacted by
12 sec. 15 of this Act, AS 47.14.115(b), enacted by sec. 16 of this Act, AS 47.18.320(d), enacted
13 by sec. 17 of this Act, and AS 47.32.032(c), enacted by sec. 18 of this Act.

14 * **Sec. 22.** Section 20 of this Act takes effect immediately under AS 01.10.070(c).