

HOUSE BILL NO. 380

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE EASTMAN

Introduced: 2/20/24

Referred: Health and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Child Removal Review Board; relating to the removal of
2 children from the state; and relating to the recognition and enforcement of orders
3 relating to the removal of children issued by other jurisdictions."

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

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

7 SHORT TITLE. This Act may be known as the 2024 Sanctuary State for Minors Act.

8 * **Sec. 2.** AS 09.43.440 is amended by adding a new subsection to read:

9 (h) Notwithstanding (g) of this section, a court may not enforce a subpoena or
10 discovery-related order from another state for the attendance of a witness in this state
11 who is a child unless the removal of the child is permitted under AS 44.30.230.

12 * **Sec. 3.** AS 12.50.010(a) is amended to read:

13 (a) Except as provided in AS 44.30.230, if [IF] a judge of a court of record in
14 any state which by its laws has made provision for commanding persons within the

state to attend and testify in this state certifies under the seal of the court that there is a criminal prosecution pending in the court, or that a grand jury investigation has commenced or is about to commence, that a person within this state is a material witness in that prosecution or grand jury investigation, and that the presence of that person will be required for a specified number of days, then, upon presentation of the certificate to a judge of a court of record in the judicial district in which the person is, the judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at a time and place certain for the hearing.

* **Sec. 4.** AS 25.30.400 is amended to read:

Sec. 25.30.400. Enforcement under the Hague Convention. Under AS 25.30.400 - 25.30.590, a court of this state may enforce an order for the return of a child made under the Hague Convention on the Civil Aspects of International Child Abduction as if the order were a child custody determination only if removal of the child from the state is permitted under AS 44.30.230.

* **Sec. 5.** AS 25.30.410 is amended by adding a new subsection to read:

(c) A court of this state may not enforce a child custody determination of a court of another state that requires the removal of a child from the state unless the removal is permitted under AS 44.30.230.

* **Sec. 6.** AS 25.30.440 is amended by adding a new subsection to read:

(c) A court of this state may not grant relief to enforce a child custody determination of a court of another state that requires the removal of a child from the state unless the removal is permitted under AS 44.30.230.

* **Sec. 7.** AS 25.30.510 is amended to read:

Sec. 25.30.510. Recognition and enforcement. A court of this state shall give full faith and credit to an order issued by another state consistent with this chapter if the order enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under AS 25.30.300 - 25.30.390 or provisions substantially similar to AS 25.30.300 - 25.30.390, or the order requires the child to be removed from the state and the removal of the child is not permitted under AS 44.30.230.

* **Sec. 8.** AS 39.50.200(b) is amended by adding a new paragraph to read:

(65) Child Removal Review Board (AS 44.30.200).

* **Sec. 9.** AS 44.30 is amended by adding new sections to read:

Article 3. Child Removal Review Board.

Sec. 44.30.200. Child Removal Review Board. (a) The Child Removal Review Board is created in the Department of Family and Community Services. The board consists of five members appointed by the governor, each of whom are, or have been, parents. Appointees to the board are subject to confirmation by a majority of members of the legislature in joint session.

(b) Members of the board serve for terms of five years and until a successor is appointed.

(c) The governor shall choose the chair of the board from among the membership.

(d) The governor shall appoint at least one member from each judicial district.

Sec. 44.30.210. Compensation and expenses. A board member is entitled to compensation in an amount set by the governor for each day the member participates in the business of the board and per diem and travel allowances as provided under AS 39.20.180.

Sec. 44.30.220. Meetings of the board. (a) The board shall meet at least four times a year, but may hold additional meetings as necessary to carry out its duties.

(b) The board may conduct meetings in person or by teleconference.

Sec. 44.30.230. Approval of child removal. (a) The board shall review orders and requests from other states, the federal government, or foreign jurisdictions to remove a child who is a resident from the state and determine whether a parent or guardian of the child objects to the removal. In this section, a child is a resident of the state immediately upon declaring an intent to reside and remain in the state or upon attempting to travel to the state for the purpose of declaring an intent to reside and remain in the state upon arrival. If a parent or guardian objects to the removal, the board may approve the removal only upon finding by clear and convincing evidence that

(1) the removal

(A) is in the best interests of the child; and

1 (B) will not impose additional costs on the state; or

2 (2) if the order or request relates to allegations that the child has
3 committed a violent offense as defined in regulations established by the Department of
4 Family and Community Services, the removal is in the best interests of the public.

5 (b) In making a determination under (a)(1)(A) of this section, the board may
6 apply a rebuttable presumption that removal is in the child's best interests. The board
7 shall consider

8 (1) the physical, emotional, mental, religious, and social needs of the
9 child;

10 (2) the level of risk of the child becoming a victim of a crime in this or
11 the state to which the child is sent;

12 (3) the level of risk of the child, before reaching 18 years of age,
13 becoming subject to a medical or other procedure in another state that is prohibited in
14 one or more states from taking place before a child reaches 18 years of age;

15 (4) the child's preference, if the child is of sufficient age and capacity
16 to form a preference;

17 (5) the love and affection existing between the child and each parent or
18 guardian if the removal involves the child choosing between parents or guardians;

19 (6) the length of time the child has lived in a stable, satisfactory
20 environment and the desirability of maintaining continuity;

21 (7) the willingness and ability of each parent to facilitate and
22 encourage a close and continuing bond with the other parent and the child, unless one
23 parent shows that the other parent has sexually assaulted or engaged in domestic
24 violence against the parent or child and that a continuing relationship with that parent
25 is likely to endanger the health or safety of either the child or parent;

26 (8) evidence of domestic violence, child abuse, or child neglect in the
27 household in which the child will reside in this state or the state to which the child is
28 sent or a history of domestic violence between the parents of the child;

29 (9) evidence that substance abuse by either parent of the child or other
30 members of the parent's household directly affects the emotional or physical well-
31 being of the child;

1 (10) public safety if the child has a history of violence or has been
2 charged with a crime involving violence in this or another state; and

3 (11) the interests of the public.

4 (c) Notwithstanding another provision of law and except as provided in (e) of
5 this section, a child of a parent who has objected to an order or request from another
6 state, the federal government, or a foreign jurisdiction to remove the child from the
7 state may only be removed from the state if the removal has been approved by the
8 board. A request to remove a child from the state is granted only upon approval by a
9 unanimous vote of all five board members.

10 (d) The board may not review more than one removal request for the same
11 child within a six-month period.

12 (e) This section does not apply to an order or request from another state, the
13 federal government, or a foreign jurisdiction to remove a child from the state if

14 (1) the child would be absent from the state for a designated period,
15 not to exceed one month; and

16 (2) the order or request includes

17 (A) a date on which the child will return to the state;

18 (B) a promise that the child will be returned to the state in
19 sound mind and body; and

20 (C) an agreement that the other state, federal government, or
21 foreign jurisdiction that issued the order or request will pay the state
22 \$1,000,000 if the child is not returned to the state by the date provided in the
23 order or request.

24 (f) Nothing in this section prevents federal officials from using federal
25 resources to enforce or carry out federal laws or treaties.

26 **Sec. 44.30.240. Regulations.** The Department of Family and Community
27 services shall adopt regulations necessary for the board to carry out its duties under
28 AS 44.30.200 - 44.30.290.

29 **Sec. 44.30.290. Definition.** In AS 44.30.200 - 44.30.290, "board" means the
30 Child Removal Review Board.

31 * **Sec. 10.** AS 47.15.060 is amended to read:

1 **Sec. 47.15.060. Enforcement.** The courts, departments, agencies, and officers
 2 of this state and its subdivisions shall enforce this compact and shall do all things
 3 appropriate to the effectuation of its purposes and intent which are within their
 4 respective jurisdiction. **The courts, departments, agencies, and officers of this state**
 5 **may not enforce an order for a child's removal from the state unless the removal**
 6 **of the child is permitted under AS 44.30.230.**

7 * **Sec. 11.** The uncoded law of the State of Alaska is amended by adding a new section to
 8 read:

9 TRANSITION: APPOINTMENT OF INITIAL MEMBERS OF THE CHILD
 10 REMOVAL REVIEW BOARD. Notwithstanding AS 44.30.200, added by sec. 9 of this Act,
 11 the governor shall appoint the initial members of the Child Removal Review Board to
 12 staggered terms as follows:

- 13 (1) one member shall be appointed to a term of one year;
- 14 (2) two members shall be appointed to terms of three years; and
- 15 (3) two members shall be appointed to terms of five years.