Original sponsor(s): REP. COLLINS, Gruenberg, Ulmer, Furnace, Hanley

1 IN THE HOUSE BY THE HESS COMMITTEE
2 CS FOR HOUSE BILL NO. 19 (HESS)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to citizen review panels for certain
7 children in state custody; court review of cases
8 relating to children; establishing the State Chil-
9 dren's Citizen Review Panel; amending Rule 19 of the
10 Child in Need of Aid Rules; and providing for an
11 effective date."
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
13 * Section 1. FINDINGS AND PURPOSE. The legislature finds that there is
14 a need in the state for a citizen review process for the cases of children
15 who are in state custody, either in foster care or in other out-of-home
16 placement. The purpose of this Act is to establish a citizen review pro-
17 cess in order to ensure that children do not linger unnecessarily in foster
18 care or other out-of-home placements, but rather that they receive the
19 support and benefits of a permanent home. The goal of this Act is to
20 reunite the children with their families by ensuring that services are
21 available and appropriate for reunification, and if reunification is not in
22 the best interests of the child, to expeditiously place the child in a
23 secure, permanent home.
24 * Sec. 2. AS 47.10 is amended by adding new sections to read:
25 ARTICLE 6. STATE CHILDREN'S CITIZEN REVIEW PANEL.
26 Sec. 47.10.400. STATE CHILDREN'S CITIZEN REVIEW PANEL. (a)
27 There is created in the Office of the Governor the State Children's
28 Citizen Review Panel. The state panel consists of five members ap-
29 pointed by the governor from among past or present members of local

1 citizen review panels established under AS 47.10.420. The governor
2 shall appoint at least one state panel member from each judicial
3 district. At least one member must be knowledgeable about 25 U.S.C.
4 1901 - 1963 (Indian Child Welfare Act). The governor may not appoint
5 a person who has committed a felony or violated AS 11.51.130 or a law
6 with substantially similar elements.
7 (b) Members of the state panel serve at the pleasure of the
8 governor for staggered terms of three years or until their successors
9 are appointed.
10 (c) The state panel shall elect from its members a chair who
11 shall serve for two years. Three members of the state panel consti-
12 tute a quorum for the transaction of business.
13 (d) Members of the state panel are entitled to reimbursement for
14 actual expenses necessary to perform their duties as state panel
15 members. The reimbursement may not exceed the amount of per diem and
16 expenses authorized for boards and commissions under AS 39.20.180.
17 (e) The state panel shall meet twice annually. Meetings may
18 take place telephonically.
19 (f) The state panel may employ a director who shall serve at the
20 pleasure of the state panel. The director shall employ staff as
21 necessary to carry out the director's duties under state panel direc-
22 tives.
23 (g) Meetings during which the state panel discusses confidential
24 material provided by a local panel are confidential. When a person is
25 appointed to serve on the state panel, the person shall swear or
26 affirm to keep confidential all confidential material provided by a
27 local panel.
28 Sec. 47.10.410. DUTIES OF THE STATE PANEL. The state panel
29 shall

1 (1) adopt policies and procedures to carry out its duties
2 and to govern the performance of the duties of the local panels estab-
3 lished under AS 47.10.420;
4 (2) establish a program of training for state and local
5 panel members;
6 (3) coordinate and review the activities of the local
7 panels and make recommendations to the governor on appointments to the
8 local panels;
9 (4) report annually to the legislature by the 10th day of
10 each regular session, concerning the activities of the state and local
11 panels; the report must include the number of cases reviewed by each
12 local panel, the changes in the plan or placement of a child in foster
13 care made by the department as a result of recommendations of a local
14 panel, gaps in services that could prevent out-of-home placement, and
15 the benefits to the state that result from the implementation of
16 recommendations made by a local panel and adopted by the department;
17 the report may contain other information on the experience of the
18 local panels and recommendations for change in the review panel sys-
19 tem.
20 Sec. 47.10.420. APPOINTMENT OF LOCAL PANELS. (a) The governor
21 shall appoint for each judicial district a local citizen foster care
22 review panel composed of five members and two alternates who are
23 residents of the judicial district. Members shall serve three-year
24 terms except that when a local panel is initially appointed, two
25 members shall be appointed for three-year terms, two members for
26 two-year terms, and one member for a one-year term. Alternates shall
27 be appointed to three-year terms.
28 (b) The governor shall appoint to a local panel persons who have
29 training, experience, special knowledge, or a demonstrated interest in

1 the welfare of children. A licensed foster parent or a person employ-
2 ed by the court system, the department, the Office of Public Advocacy,
3 or the Department of Law may not serve as a member or alternate member
4 of a local panel. The governor may not appoint a person who has
5 committed a felony or violated AS 11.51.130 or a law with substan-
6 tially similar elements.
7 (c) The composition of a local panel must be reasonably repre-
8 sentative of the various social, economic, racial, ethnic, and cul-
9 tural groups of the region from which the members may be appointed.
10 (d) If the state panel determines that additional local panels
11 are necessary in a judicial district because of excessively large or
12 complex caseloads for review or because of the demographics of cases,
13 or determines that a local panel is not necessary because of a reduced
14 caseload, the governor may create or dissolve a local panel. The
15 governor may not reduce the number of panels in a judicial district to
16 fewer than one. Appointments to a panel established under this sub-
17 section are governed by (a) - (c) of this section.
18 (e) A local panel shall conduct its meetings in the judicial
19 district in which its members reside.
20 (f) The local panel shall elect one of its members to serve as
21 chair.
22 (g) When a person is appointed to serve on a local panel, the
23 person shall swear or affirm to keep confidential all information that
24 comes before the local panel except for information shared with the
25 state panel, reports required under AS 47.17, or as required by court
26 order for good cause shown.
27 Sec. 47.10.430. QUORUM. A majority of the members of a local
28 panel constitutes a quorum. A majority of the members of the local
29 panel may decide an issue before the local panel.

1 Sec. 47.10.450. REIMBURSEMENT FOR EXPENSES. Local panel members
2 are entitled to reimbursement for actual expenses necessary to perform
3 their duties as local panel members. The reimbursement may not exceed
4 the amount of per diem and expenses authorized for boards and com-
5 missions under AS 39.20.180.
6 Sec. 47.10.460. DUTIES OF LOCAL PANEL. (a) A local panel shall
7 review the case plan and the actual placement of each child placed in
8 the custody of the department under AS 47.10.080(b)(3), (c)(1), or
9 (c)(3), 47.10.142, or 47.10.230(c), residing within its jurisdictional
10 area. The state panel may request a local panel in another juris-
11 diction to conduct a review and submit a report if that local panel is
12 more convenient for the child and other persons involved.
13 (b) The local panel shall review a case as required under 42
14 U.S.C. 671 - 675 (P.L. 96-272) and according to the timing and content
15 requirements of federal law and regulations during the time period
16 that is between 90 and 120 days after the child is in the custody of
17 the department and every six months thereafter. A court review may be
18 substituted for a review required under this subsection if the court
19 review meets the requirements of this subsection.
20 (c) At least two weeks before it begins a review, the local
21 panel shall provide written notice to the department and to each party
22 that a review will be conducted and that each party may participate in
23 the review. A copy of the notice sent to the child's parents shall
24 also be sent to the department.
25 (d) The review shall assess the progress toward achievement of
26 family reunification or an alternative permanent placement plan, the
27 appropriateness of the placement setting, availability of services and
28 services actually provided to achieve the selected goals, the extent
29 of compliance with applicable provisions of 25 U.S.C. 1901 - 1963

1 (Indian Child Welfare Act), and previous decisions made in the case.
2 In reviewing a case, the local panel shall consider the case plan and
3 any progress report of the department, court records, and other infor-
4 mation about the child and the child's family. The local panel shall
5 provide to the following persons an opportunity to be interviewed by
6 or provide written material to the panel: foster parents, parents,
7 custodians, other relatives of the child, guardian, guardian ad litem,
8 the case worker or social worker assigned to the case, the designated
9 representative of the child's tribal organization, and other persons
10 with a close personal knowledge of the case. At the discretion of the
11 child's guardian ad litem, the child may be present at interviews or
12 may be interviewed. The local panel may conduct interviews in person
13 or by telephone.
14 (e) During a review under (a) of this section, a local panel
15 shall
16 (1) encourage the return of the child to the child's par-
17 ents or recommend to the department that maximum efforts be exerted to
18 reunite the family unless there is a determination by the local panel
19 that return to the family is not in the best interests of the child;
20 (2) promote and encourage the department to place or keep
21 children with persons suitable and eligible as adoptive parents;
22 (3) recommend that the department exert maximum efforts to
23 place the child for adoption, or to make arrangements for permanent
24 foster care or guardianship for children, if return to the child's
25 parents is not possible or is contrary to the child's best interests.
26 (f) Except as provided in (g) of this section, the local panel
27 shall submit a written report to the court, the department, and the
28 parties within 30 days after reviewing a case. The report must make
29 recommendations based on the best interests of the child in accordance

1 with AS 47.10.082. If the court has scheduled the case for review,
2 the local panel shall submit its report at least 10 days before the
3 hearing.
4 (g) If the local panel review relates to a child who is in
5 temporary custody under AS 47.10.142 but who has not been found to be
6 a child in need of aid under AS 47.10.080(c), the local panel shall
7 submit a written report to the department within 30 days after review-
8 ing the case. The report must make recommendations based on the best
9 interests of the child in accordance with AS 47.10.082. A report
10 under this subsection is confidential.
11 Sec. 47.10.470. COOPERATION WITH THE DEPARTMENT. The department
12 shall cooperate with the state panel and the local panel. If the
13 department is unable or unwilling to implement the recommendations of
14 a local panel, the department shall submit to the local panel, within
15 15 working days after receipt of the findings and recommendations, an
16 implementation report setting out the reasons why the department is
17 unable or unwilling to implement the local panel's recommendations.
18 The report must also set out the case plan that the department intends
19 to implement.
20 Sec. 47.10.480. RECORDS; COMMUNICATIONS. (a) At the request of
21 a local panel, the department and the court shall furnish to the local
22 panel records concerning a child who is the subject of a local panel
23 review or the child's family maintained by the court under AS 47.10.-
24 090 or by the department. A public or private agency or institution
25 that provides care or services for the child shall furnish the local
26 panel with the records and other information the local panel requests.
27 Notwithstanding AS 44.62.310, records and reports of the local panel,
28 testimony before the local panel, and deliberations of the local panel
29 are confidential under AS 47.10.090.

1 (b) A local panel member may not reveal to another person, other
2 than the state panel, a communication made to the member while per-
3 forming the member's duties under AS 47.10.400 - 47.10.590 except as
4 required under AS 47.17 or as required by court order for good cause
5 shown.
6 (c) A local panel proceeding is not governed by AS 44.62.310.
7 Sec. 47.10.490. COURT REVIEW OF REPORT. (a) The court shall
8 consider the report of the local panel in its review under AS 47.10.-
9 080(f) of the placement of a child in need of aid under AS 47.10.-
10 080(c)(1) or when it considers the report of the department or guard-
11 ian of a child in need of aid under AS 47.10.080(c)(3).
12 (b) The court may refer to the local panel a case called for a
13 special review under AS 47.10.080(f).
14 Sec. 47.10.500. INDEMNIFICATION OF PANEL MEMBERS. A state panel
15 member and a local panel member shall be indemnified by the state for
16 civil liability for a negligent act or omission of the panel member
17 that occurs in the performance of the member's duties under AS 47.10.-
18 400 - 47.10.590 unless the civil liability results from the panel
19 member's violation of
20 (1) AS 47.10.480(b); or
21 (2) the oath or affirmation required under AS 47.10.400(g)
22 or 47.10.420(g).
23 Sec. 47.10.590. DEFINITIONS. In AS 47.10.400 - 47.10.590
24 (1) "local panel" means a local citizen review panel ap-
25 pointed under AS 47.10.420;
26 (2) "party" means the child or the child's legal represen-
27 tative, the child's foster parents, the child's natural parents, and
28 if the child's case is governed by 25 U.S.C. 1901 - 1963 (Indian Child
29 Welfare Act) the leaders of the child's Indian tribe or an Indian

1 custodian who has intervened, and any other person who has been al-
2 lowed to intervene by the court;
3 (3) "state panel" means the State Children's Citizen Review
4 Panel established under AS 47.10.400.
5 * Sec. 3. AS 44.66.010(a) is amended by adding a new paragraph to read:
6 (17) State Children's Citizen Review Panel under AS 47.10.-
7 400 -- June 30, 1994.
8 * Sec. 4. AS 47.10.080(f) is amended to read:
9 (f) A minor found to be delinquent or a child in need of aid is
10 a ward of the state while committed to the department or the depart-
11 ment has the power to supervise the minor's actions. The court shall
12 review an order made under (b) or (c)(1) or (2) of this section an-
13 nually, and may review the order more frequently to determine if
14 continued placement, probation, or supervision, as it is being pro-
15 vided, is in the best interest of the minor and the public. <u>If annual</u>
16 <u>review under this subsection would arise within 90 days of the hearing</u>
17 <u>required under (1) of this section, the court may postpone review</u>
18 <u>under this subsection until the time set for the hearing.</u> The depart-
19 ment, the minor, the minor's parents, guardian, or custodian are
20 entitled, when good cause is shown, to a review on application. If
21 the application is granted, the court shall afford these parties and
22 their counsel reasonable notice in advance of the review and hold a
23 hearing where these parties and their counsel shall be afforded an
24 opportunity to be heard. The minor shall be afforded the opportunity
25 to be present at the review.
26 * Sec. 5. AS 47.10.080 is amended by adding new subsections to read:
27 (1) Within 18 months of the date a minor is initially taken into
28 custody by the department under AS 47.10.142(c), the court shall hold
29 a hearing to review the placement and services provided and to

1 determine the future status of the minor. The court shall make appro-
2 priate written findings, including findings related to the following:
3 (1) whether the child should be returned to the parent;
4 (2) whether the child should remain in foster care for a
5 specified period;
6 (3) whether the child should be placed for adoption;
7 (4) whether the child should remain in foster care on a
8 permanent or long-term basis because of special needs.
9 (m) When the court orders a child committed to the department
10 under (c) of this section and at a review under (f) or (l) of this
11 section, the court shall inform the parties about the local foster
12 care review panel established under AS 47.10.420.
13 * Sec. 6. AS 47.10.142 is amended by adding new subsections to read:
14 (g) When a court orders a child committed to the department
15 under this section, the court shall inform the following persons about
16 the local foster care review panel established under AS 47.10.420:
17 (1) the child and the child's guardian ad litem;
18 (2) the parents or guardian of the child;
19 (3) the leaders of the child's tribe if the child's case is
20 subject to 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act).
21 (h) Within 18 months after a minor is committed to the depart-
22 ment under this section, the court shall review the placement plan and
23 actual placement of the minor under AS 47.10.080(l).
24 * Sec. 7. Notwithstanding AS 47.10.400(b), enacted by sec. 2 of this
25 Act, the governor shall appoint the initial members of the State Children's
26 Citizen Review Panel so that one serves a one-year term, two serve two-year
27 terms, and two serve three-year terms. The initial members must be persons
28 who have training, experience, special knowledge, or a demonstrated inter-
29 est in the welfare of children. A licensed foster parent or a person

1 employed by the court system, the Department of Health and Social Services,
2 the Office of Public Advocacy, or the Department of Law may not serve as a
3 member of the panel.
4 * Sec. 8. AS 47.10.490, enacted by sec. 2 of this Act, has the effect
5 of amending Rule 19 of the Child in Need of Aid Rules by requiring a court
6 to consider recommendations from a foster care review panel when conducting
7 a review of the placement of a child in foster care.
8 * Sec. 9. This Act takes effect July 1, 1990.