

Offered: 3/22/90
Referred: Finance

6-0133R

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

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 19 (Judiciary)

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 Citizens'
9 Review Panel for Permanency Planning; and providing
10 for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. FINDINGS AND PURPOSE. The legislature finds that there is
13 a need in the state for a citizen review process for the cases of children
14 in state custody who are in either foster care or other out-of-home place-
15 ment. The purpose of this Act is to establish a citizen review process in
16 order to ensure that children do not linger unnecessarily in out-of-home
17 placements, but rather that they receive the support and benefits of a
18 permanent home. The goal of this Act is to reunite the children with their
19 families by ensuring that services are available and appropriate for re-
20 unification, and if reunification is not in the best interests of the
21 child, to expeditiously place the child in a secure, permanent home.

22 * Sec. 2. AS 47.10 is amended by adding new sections to read:

23 ARTICLE 6. CITIZENS' REVIEW PANEL FOR PERMANENCY PLANNING.

24 Sec. 47.10.400. CITIZENS' REVIEW PANEL FOR PERMANENCY PLANNING.

25 (a) There is created in the Department of Administration the Citi-
26 zens' Review Panel for Permanency Planning. The state panel consists
27 of five voting members appointed by the governor from among present
28 members of local citizen review panels established under AS 47.10.420.

29 The governor shall appoint at least one voting state panel member from

1 each judicial district. The governor may not appoint a person who has
2 committed a felony or violated AS 11.51.130 or a law with substantial-
3 ly similar elements. The panel also includes the following five
4 nonvoting members who serve ex officio or their designees: the com-
5 missioner of health and social services, the director of the office of
6 public advocacy, the attorney general, the public defender appointed
7 under AS 18.85.030, and the chief justice of the Alaska Supreme Court.

8 (b) Appointed members of the state panel serve at the pleasure
9 of the governor for staggered terms of three years or until their
10 successors are appointed.

11 (c) The voting members of the state panel shall elect from among
12 the voting members a chair who shall serve for one year. Three voting
13 members of the state panel constitute a quorum for the transaction of
14 business. The panel may not take official action without the affirma-
15 tive vote of at least three of its members.

16 (d) Members of the state panel are entitled to reimbursement for
17 actual expenses necessary to perform their duties as state panel
18 members. The reimbursement may not exceed the amount of per diem and
19 expenses authorized for boards and commissions under AS 39.20.180.

20 (e) The state panel shall meet twice annually. Meetings may
21 take place telephonically.

22 (f) The state panel may employ an executive director who shall
23 serve at the pleasure of the state panel. The executive director
24 shall employ staff as necessary to carry out the executive director's
25 duties under state panel directives and to provide clerical assistance
26 to local panels.

27 Sec. 47.10.410. DUTIES OF THE STATE PANEL. The state panel
28 shall

29 (1) by regulation adopt policies and procedures to carry

1 out its duties and to govern the performance of the duties of the
2 local panels established under AS 47.10.420;

3 (2) ensure that local panel members receive the minimum
4 level of training necessary to effectively carry out their duties;

5 (3) coordinate and review the activities of the local
6 panels and make recommendations to the governor on appointments to the
7 local panels;

8 (4) report annually to the legislature by the 10th day of
9 each regular session, concerning the activities of the state and local
10 panels during the previous fiscal year; the report must include the
11 number of cases reviewed by each local panel, a description of the
12 characteristics of the children whose cases were reviewed by the
13 panels, the number of children reunited with their families, the
14 number of children placed in other permanent homes, and recommenda-
15 tions and justifications for program improvement, including recommen-
16 dations relating to state agencies and to the panel review system; the
17 report may contain other information on the experience of the local
18 panels.

19 Sec. 47.10.420. APPOINTMENT OF LOCAL PANELS. (a) The governor
20 shall appoint for each judicial district a local citizen out-of-home
21 care review panel composed of five members and two alternates who are
22 residents of the judicial district. Members shall serve three-year
23 terms except that when a local panel is initially appointed, two
24 members shall be appointed for three-year terms, two members for
25 two-year terms, and one member for a one-year term. Alternates shall
26 be appointed to three-year terms.

27 (b) The governor shall appoint to a local panel persons who have
28 training, experience, special knowledge, or a demonstrated interest in
29 the welfare of children. An out-of-home care provider or a person

1 employed by the court system, the department, the office of public
2 advocacy, the Public Defender Agency, or the Department of Law may not
3 serve as a member or alternate member of a local panel. The governor
4 may not appoint a person who has committed a felony or violated
5 AS 11.51.130 or a law with substantially similar elements.

6 (c) The composition of a local panel must be reasonably repre-
7 sentative of the various social, economic, racial, ethnic, and cul-
8 tural groups of the district from which the members are appointed.

9 (d) If the state panel determines that additional local panels
10 are necessary in a judicial district because of excessively large or
11 complex caseloads for review or because of the demographics of cases,
12 or determines that a local panel is not necessary because of a reduced
13 caseload, the governor may create or dissolve a local panel. The
14 governor may not reduce the number of panels in a judicial district to
15 fewer than one. Appointments to a panel established under this sub-
16 section are governed by (a) - (c) of this section.

17 (e) When a person is appointed to serve on a local panel, the
18 person shall swear or affirm to keep confidential all information that
19 comes before the local panel except for nonidentifying case informa-
20 tion included in a report to the state panel, information for reports
21 required under AS 47.17, or as required by court order for good cause
22 shown. A local panel member may also share confidential information
23 with other members of the local panel and staff who serve the local
24 panel.

25 Sec. 47.10.430. MEETINGS; EXPENSES. (a) A local panel shall
26 conduct its meetings in the judicial district in which its members
27 reside.

28 (b) The local panel shall elect one of its members to serve as
29 chair for a term of one year.

1 (c) A majority of the members of a local panel constitutes a
2 quorum. A panel may not take official action without the affirmative
3 vote of at least three of its members.

4 (d) A local panel member is not eligible for travel expenses,
5 per diem, or other expenses for service on the local panel unless the
6 state panel requires a local panel member to travel to attend a meet-
7 ing. If the state panel requires a local panel member to travel to
8 attend a meeting, the local panel member is entitled to reimbursement
9 for actual expenses incurred by the member in attending the meeting,
10 except that the reimbursement may not exceed the amount of per diem
11 and expenses authorized for boards and commissions under AS 39.20.180.

12 Sec. 47.10.440. DUTIES OF LOCAL PANEL. (a) A local panel shall
13 review the case plan of each child in the custody of the department
14 who is in a placement other than the child's own home under AS 47.-
15 10.080(b)(3), (c)(1), or (c)(3), 47.10.142, or 47.10.230(c) if the
16 case is under the jurisdiction of a court in the judicial district
17 served by the panel. A local panel may request a local panel in
18 another judicial district to conduct a review and make a report if
19 that local panel is more convenient for the child and other persons
20 involved.

21 (b) The local panel shall review a case as required under 42
22 U.S.C. 671 - 675 (P.L. 96-272) within 180 days after the day the child
23 is initially removed from the child's home and every six months there-
24 after. A court review may be substituted for a review required under
25 this subsection if the court review meets the requirements of this
26 subsection.

27 (c) At least 30 days before it begins a review, the local panel
28 shall provide written notice to the following persons that a review
29 will be conducted and that each person notified may participate in the

1 review:

2 (1) the department;

3 (2) the child or the child's legal representative;

4 (3) the child's parents;

5 (4) the child's guardian;

6 (5) the child's guardian ad litem;

7 (6) the child's out-of-home care provider; and

8 (7) if the case is governed by 25 U.S.C. 1901 - 1963

9 (Indian Child Welfare Act),

10 (A) the child's Indian custodian; and

11 (B) the designated representative of the child's

12 Indian tribe if the tribe has intervened in the case.

13 (d) In reviewing a case, the local panel shall consider the case

14 plan and any progress report of the department or the child's guardian

15 ad litem, court records, and other relevant information about the

16 child and the child's family. The local panel shall also provide to

17 the following persons an opportunity to be interviewed by the panel in

18 person or by telephone or to provide written material to the panel:

19 (1) the child whose case is being reviewed if the child is

20 10 years of age or older;

21 (2) the parents, custodians, or other relatives of the

22 child;

23 (3) the child's out-of-home care provider;

24 (4) the child's guardian;

25 (5) the child's guardian ad litem;

26 (6) the case worker or social worker assigned to the case;

27 (7) if the case is governed by 25 U.S.C. 1901 - 1963

28 (Indian Child Welfare Act),

29 (A) the child's Indian custodian; and

1 (B) the designated representative of the child's
2 Indian tribe if the tribe has intervened in the case; and

3 (8) other persons with a close personal knowledge of the
4 case.

5 (e) At the discretion of the child's guardian ad litem, if the
6 child whose case is being reviewed is under 10 years of age, the child
7 may be present at interviews conducted under (d) of this section and
8 during review by the panel, or may be interviewed. At the child's
9 request, a child who is 10 years of age or older shall be allowed to
10 be present at interviews or a review of the local panel that concerns
11 the child's case unless the panel determines that for good cause the
12 child's presence would be contrary to the best interests of the child
13 or there is other good cause for denying the child's request.

14 (f) During a review under (a) of this section, a local panel
15 shall

16 (1) determine whether the child has a case plan designed to
17 achieve placement in the least restrictive, most family-like setting
18 available in close proximity to the home of the child's parents that
19 is consistent with the best interests of and special needs and circum-
20 stances of the child;

21 (2) evaluate the continuing necessity and appropriateness
22 of the child's placement, the extent of the compliance with the
23 child's case plan, and the extent of progress that has been made
24 toward mitigating the causes that necessitated placement away from the
25 child's parents;

26 (3) ascertain the date by which it is likely the child may
27 be returned to the home or placed for adoption or legal guardianship;

28 (4) determine whether there has been compliance with appli-
29 cable provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act)

1 and other applicable state and federal laws; and

2 (5) determine whether there has been compliance with court
3 review requirements of AS 47.10.080(f) and (1) and 47.10.142(h).

4 (g) The local panel shall within 30 days after reviewing the
5 case submit a written report to the persons listed in (c) of this
6 section.

7 (h) The report required under (g) of this section must make
8 advisory recommendations based on the best interests of the child in
9 accordance with AS 47.10.082 and must include notification of the
10 right to request court review under AS 47.10.080(f). If the court has
11 scheduled the case for review, the local panel shall submit its report
12 at least 20 days before the hearing.

13 (i) The local panel shall report to the state panel information
14 needed by the state panel to prepare the report required under AS 47.-
15 10.410.

16 Sec. 47.10.450. COOPERATION WITH STATE AND LOCAL PANELS. The
17 department, Department of Law, public defender, office of public
18 advocacy, and court system shall cooperate with the state panel and
19 the local panels to facilitate timely review of plans for children
20 whose cases are under the jurisdiction of the panels.

21 Sec. 47.10.460. RECORDS; COMMUNICATIONS. (a) Notwithstanding
22 AS 47.10.090, at the request of a local panel, the department, the
23 child's guardian ad litem, and the court shall furnish to the local
24 panel relevant records concerning a child and the child's family who
25 are the subjects of a local panel review. At the conclusion of a
26 review, all copies of records provided to a local panel under this
27 section shall be returned to the staff that serves the local panel or
28 to the agency from which the original copy was obtained unless the
29 panel members need the copies to prepare the reports required under

1 AS 47.10.440(g) - (i). Copies retained for preparation of the reports
2 shall be returned to the staff that serves the local panel or to the
3 originating agency upon completion of the reports. Notwithstanding
4 AS 44.62.310, records and reports of the local panel, testimony before
5 the local panel, and deliberations of the local panel are confidential
6 under AS 47.10.090.

7 (b) A local panel member may not reveal to another person, other
8 than another member of the local panel or the staff serving the local
9 panel, a communication made to the member while performing the mem-
10 ber's duties under AS 47.10.400 - 47.10.490 except as required under
11 AS 47.17 or as required by court order for good cause shown. A local
12 panel member may share with the state panel communications made during
13 the local panel member's performance of official duties if the local
14 panel member omits identifying information.

15 (c) A local panel proceeding is not governed by AS 44.62.310.

16 Sec. 47.10.470. COURT REVIEW OF REPORT. (a) When a report is
17 admissible under court rules, the court may consider the report of the
18 local panel in its review under AS 47.10.080(f) and at other disposi-
19 tion hearings other than hearings related to delinquency proceedings.

20 (b) The court may refer to the local panel a case called for a
21 special review under AS 47.10.080(f).

22 Sec. 47.10.480. INDEMNIFICATION OF PANEL MEMBERS. A state panel
23 member and a local panel member shall be indemnified by the state for
24 civil liability for a negligent act or omission of the panel member
25 that occurs in the performance of the member's duties under AS 47.10.-
26 400 - 47.10.490 unless the civil liability results from the panel
27 member's violation of

28 (1) AS 47.10.460(b); or

29 (2) the oath or affirmation required under AS 47.10.420(e).

1 Sec. 47.10.490. DEFINITIONS. In AS 47.10.400 - 47.10.490

2 (1) "local panel" means a local citizen out-of-home care
3 review panel appointed under AS 47.10.420;

4 (2) "out-of-home care provider" means an agency or a per-
5 son, other than the child's legal parents, with whom the child is
6 currently placed and who is in the custody of the state under AS 47.-
7 10.080(b)(3), (c)(1), or (c)(3), 47.10.142, or 47.10.230(c), including
8 a foster parent, a relative other than a parent, a person who has
9 petitioned for adoption of the child, or a residential child care
10 facility;

11 (3) "state panel" means the Citizens' Review Panel for
12 Permanency Planning established under AS 47.10.400.

13 * Sec. 3. AS 44.66.010(a) is amended by adding a new paragraph to read:

14 (17) Citizens' Review Panel for Permanency Planning under
15 AS 47.10.400 -- June 30, 1994.

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

17 (f) A minor found to be delinquent or a child in need of aid is
18 a ward of the state while committed to the department or the depart-
19 ment has the power to supervise the minor's actions. The court shall
20 review an order made under (b) or (c)(1) or (2) of this section an-
21 nually, and may review the order more frequently to determine if
22 continued placement, probation, or supervision, as it is being pro-
23 vided, is in the best interest of the minor and the public. If annual
24 review under this subsection would arise within 90 days of the hearing
25 required under (1) of this section, the court may postpone review
26 under this subsection until the time set for the hearing. The depart-
27 ment, the minor, the minor's parents, guardian, or custodian are
28 entitled, when good cause is shown, to a review on application. If
29 the application is granted, the court shall afford these parties and

1 their counsel reasonable notice in advance of the review and hold a
2 hearing where these parties and their counsel shall be afforded an
3 opportunity to be heard. The minor shall be afforded the opportunity
4 to be present at the review.

5 * Sec. 5. AS 47.10.080 is amended by adding new subsections to read:

6 (1) Within 18 months after the date a child is initially taken
7 into custody by the department under AS 47.10.142(c) or committed to
8 the custody of the department under AS 47.10.080(b)(3), (c)(1), or
9 (c)(3), or 47.10.230(c), the court shall hold a hearing to review the
10 placement and services provided and to determine the future status of
11 the minor. The court shall make appropriate written findings, includ-
12 ing findings related to the following:

13 (1) whether the child should be returned to the parent;

14 (2) whether the child should remain in out-of-home care for
15 a specified period;

16 (3) whether the child should remain in out-of-home care on
17 a permanent or long-term basis because of special needs or circum-
18 stances;

19 (4) whether the child should be placed for adoption or
20 legal guardianship.

21 (m) Within 60 days after the date a child is removed from the
22 child's home by the department, the department shall notify the appro-
23 priate local citizen out-of-home care review panel established under
24 AS 47.10.420.

25 (n) Within 60 days after a court orders a child committed to the
26 department under (c) of this section and at a review under (f) or (1)
27 of this section, the department shall inform the parties about the
28 local citizen out-of-home care review panel established under AS 47.-
29 10.420.

1 * Sec. 6. AS 47.10.142 is amended by adding new subsections to read:

2 (g) Within 60 days after a court orders a child committed to
3 the department under this section, the department shall inform the
4 parties about the local citizen out-of-home care review panel estab-
5 lished under AS 47.10.420.

6 (h) Within 18 months after a minor is committed to the depart-
7 ment under this section, the court shall review the placement plan and
8 actual placement of the minor under AS 47.10.080(1).

9 * Sec. 7. Notwithstanding AS 47.10.400, enacted by sec. 2 of this Act,
10 the governor shall appoint the initial public members of the Citizens'
11 Review Panel for Permanency Planning so that one serves a one-year term,
12 two serve two-year terms, and two serve three-year terms. The initial
13 public members must be persons who have training, experience, special
14 knowledge, or a demonstrated interest in the welfare of children.

15 * Sec. 8. This Act takes effect July 1, 1990.