

Offered: 3/26/90
Referred: Judiciary, and Finance

6-0752G

Original sponsor(s): HESS Committee

1 IN THE HOUSE BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 178 (L&C)

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 liability, indemnification, and
7 insurance in relation to children in the custody of
8 the state who are placed with out-of-home care pro-
9 viders."

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

11 * Section 1. AS 21.36.090(c) is amended to read:

12 (c) A person may not make or permit arbitrary or unfair dis-
13 crimination between insureds or property having like insuring or risk
14 characteristics, in the premium or rates charged for a policy or
15 contract of property, casualty, surety, marine, wet marine or trans-
16 portation insurance, or in the dividends or other benefits payable on
17 the insurance, or in the selection of it, or in any other of the terms
18 and conditions of the insurance. Arbitrary or unfair discrimination
19 prohibited under this subsection includes consideration of the pres-
20 ence of foster children in a home as being a different risk charac-
21 teristic than the presence of natural children in a home in relation
22 to property or casualty insurance of a foster parent.

23 * Sec. 2. AS 47.35 is amended by adding new sections to read:

24 Sec. 47.35.110. INDEMNIFICATION OF OUT-OF-HOME CARE PROVIDERS.

25 (a) The state shall indemnify a minor's out-of-home care provider for
26 uninsured civil damages, other than punitive damages, that are a
27 result of

28 (1) acts or omissions by the minor that occur while the
29 minor is under the care of the out-of-home care provider; or

1 (2) negligent acts or omissions by the out-of-home care
2 provider that result in harm to the minor placed in the care of the
3 provider if the acts or omissions occur while the minor is under the
4 care of the provider.

5 (b) In order to be eligible for indemnification under (a) of
6 this section, the out-of-home care provider shall offer the state the
7 opportunity to defend the provider in the action for civil damages and
8 shall assist the state in the defense if the state accepts the oppor-
9 tunity to defend the provider.

10 (c) The state may seek to recover from the out-of-home care
11 provider for damages the state pays under (a)(2) of this section to
12 the extent that the provider's wilful or intentional misconduct con-
13 tributed to the minor's injury.

14 Sec. 47.35.120. UNINSURED PROPERTY LOSS. (a) Subject to (c) of
15 this section, the division of risk management, Department of Adminis-
16 tration, shall reimburse an out-of-home care provider for the unin-
17 sured loss of, or uninsured damage to, tangible property under the
18 lawful control of the provider to the extent that the loss or damage
19 exceeds \$100 if the loss or damage resulted from the misconduct of a
20 minor in the custody of the state who was placed in the care of the
21 provider.

22 (b) Under the conditions described in (a) of this section and
23 subject to (c) of this section, the division of risk management may
24 reimburse an out-of-home care provider for an uninsured loss or unin-
25 sured damage that does not exceed \$100.

26 (c) In order to be reimbursed under (a) or (b) of this section,
27 the out-of-home care provider shall provide evidence satisfactory to
28 the division that the loss or damage was caused by an act or omission
29 of the minor that occurred while the minor was in the custody of the

1 provider. Before reimbursing a provider under (a) or (b) of this
2 section, the division may also require the provider to report the loss
3 or damage to appropriate law enforcement authorities.

4 Sec. 47.35.130. DEFINITION. In AS 47.35.110 - 47.35.120, "out-
5 of-home care provider" and "provider" mean an agency or a person,
6 other than the minor's legal parents, with whom the minor is currently
7 placed and who is in the custody of the state under AS 47.10.-
8 080(b)(3), (c)(1), or (c)(3), 47.10.142, or 47.10.230(c), including a
9 foster parent, a relative other than a parent, a person who has peti-
10 tioned for adoption of the minor, or a residential child care facili-
11 ty.

12 * Sec. 3. AS 34.50.020(b) is repealed.