

## SENATE BILL NO. 234

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 4/3/91  
Referred: Judiciary, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to the duties of the office of public advocacy; and providing for an  
2 effective date."

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

4 \* Section 1. AS 25.24.310 is amended to read:

5 Sec. 25.24.310. REPRESENTATION OF MINOR. (a) In an action  
6 involving a question of the custody, support, or visitation of a minor, the court  
7 may, upon the motion of a party to the action or upon its own motion,  
8 appoint an attorney [OR THE OFFICE OF PUBLIC ADVOCACY] to represent  
9 a minor with respect to the custody, support, and visitation of the minor or in  
10 any other legal proceeding involving the minor's welfare. When custody,  
11 support, or visitation is at issue in a divorce, it is the responsibility of the  
12 parties or their counsel to notify the court that such a matter is at issue.  
13 Upon notification, the court shall determine whether the minor should have legal  
14 representation or other services and shall make a finding on the record before

1 trial: [IF THE PARTIES ARE INDIGENT OR TEMPORARILY WITHOUT  
2 FUNDS, THE COURT SHALL APPOINT THE OFFICE OF PUBLIC  
3 ADVOCACY. THE COURT SHALL NOTIFY THE OFFICE OF PUBLIC  
4 ADVOCACY IF THE OFFICE IS REQUIRED TO PROVIDE LEGAL  
5 REPRESENTATION OR OTHER SERVICES.] The court shall enter an order  
6 for costs, fees, and disbursements in favor of the state and may further order  
7 that other services be provided for the protection of the minor.

8 (b) If custody, support, or visitation is at issue, the order for costs, fees, and  
9 disbursements shall be made against either or both parents, except that, if one of the  
10 parties responsible for the costs is indigent, the costs, fees, and disbursements for that  
11 party shall be borne by the state. [IF THE PARENTS ARE ONLY TEMPORARILY  
12 WITHOUT FUNDS, THE OFFICE OF PUBLIC ADVOCACY SHALL PROVIDE  
13 LEGAL REPRESENTATION OR OTHER SERVICES REQUIRED BY THE COURT.]  
14 The attorney general is responsible for enforcing collections owed the state. Repayment  
15 shall be made to the Department of Revenue under AS 37.10.050 for deposit in the  
16 general fund. The court shall, if possible, avoid assigning costs to only one party  
17 by ordering that costs of the minor's legal representation or other services be paid  
18 from proceeds derived from a sale of property belonging jointly or individually to both  
19 parties, before a division of property is made.

20 (c) Instead of, or in addition to, appointment of an attorney under (a) of this  
21 section, the court may, upon the motion of either party or upon its own motion,  
22 appoint an attorney or other person [OR THE OFFICE OF PUBLIC ADVOCACY] to  
23 provide guardian ad litem services to a minor in any legal proceedings involving the  
24 minor's welfare. The court shall require a guardian ad litem when, in the opinion  
25 of the court, representation of the minor's best interests, to be distinguished from  
26 preferences, would serve the welfare of the minor. The court in its order appointing  
27 a guardian ad litem shall limit the duration of the appointment of the guardian ad  
28 litem to the pendency of the legal proceedings affecting the minor's interests, and shall  
29 outline the guardian ad litem's responsibilities and limit the authority to those matters  
30 related to the guardian's effective representation of the minor's best interests in the  
31 pending legal proceeding. The court shall make every reasonable effort to appoint a

1 guardian ad litem from among persons in the community where the minor's parents  
2 or the person having legal custody or guardianship of the minor's person reside.  
3 When custody, support, or visitation is at issue in a divorce, it is the responsibility  
4 of the parties or their counsel to notify the court that such a matter is at issue.  
5 Upon notification, the court shall determine if the minor's best interests need  
6 representation or if the minor needs other services and shall make a finding on the  
7 record before trial. [IF ONE OR BOTH OF THE PARTIES IS INDIGENT OR  
8 TEMPORARILY WITHOUT FUNDS THE COURT SHALL APPOINT THE OFFICE  
9 OF PUBLIC ADVOCACY. THE COURT SHALL NOTIFY THE OFFICE OF PUBLIC  
10 ADVOCACY IF THE OFFICE IS REQUIRED TO PROVIDE GUARDIAN AD LITEM  
11 SERVICES.] The court shall enter an order for costs, fees, and disbursements in  
12 favor of the state and may further order that other services be provided for the  
13 protection of the minor.

14 \* Sec. 2. AS 44.21.410(a) is amended to read:

15 (a) The office of public advocacy shall

16 (1) perform the duties of the public guardian under AS 13.26.360 -  
17 13.26.410;

18 (2) provide visitors and experts in guardianship proceedings under  
19 AS 13.26.131;

20 (3) provide guardian ad litem services to children in child protection  
21 actions under AS 47.17.030(e) and to wards and respondents in guardianship proceedings  
22 who will suffer financial hardship or become dependent upon a government agency or  
23 a private person or agency if the services are not provided at state expense under  
24 AS 13.26.112;

25 (4) provide legal representation in guardianship proceedings to respondents  
26 who are financially unable to employ attorneys under AS 13.26.106(b), and to indigent  
27 parties in cases involving child custody in which the opposing party is represented by  
28 counsel provided by a public agency other than the Department of Law [, TO  
29 INDIGENT PARENTS OR GUARDIANS OF A MINOR RESPONDENT IN A  
30 COMMITMENT PROCEEDING CONCERNING THE MINOR UNDER AS 47.30.775];

31 (5) provide legal representation and guardian ad litem services [UNDER

1 AS 25.24.310;] in cases arising under AS 47.15 (Uniform Interstate Compact on  
2 Juveniles); in cases involving petitions [TO ADOPT A MINOR UNDER  
3 AS 25.23.125(b) OR PETITIONS] for the termination of parental rights on grounds set  
4 out in AS 25.23.180(c)(3); [IN CASES INVOLVING PETITIONS TO REMOVE THE  
5 DISABILITIES OF A MINOR UNDER AS 09.55.590;] in children's proceedings under  
6 AS 47.10.050(a); and in cases involving indigent persons who are entitled to  
7 representation under AS 18.85.100 and who cannot be represented by the public  
8 defender agency because of a conflict of interests;

9 (6) develop and coordinate a program to recruit, select, train, assign, and  
10 supervise volunteer guardians ad litem from local communities to aid in delivering  
11 services in cases in which the office of public advocacy is appointed as guardian ad  
12 litem;

13 (7) provide guardian ad litem services in proceedings under  
14 AS 12.45.046.

15 \* Sec. 3. AS 47.30.775 is amended to read:

16 Sec. 47.30.775. COMMITMENT OF MINORS. The provisions of  
17 AS 47.30.700 - 47.30.815 apply to minors. However, all notices required to be served  
18 on the respondent in AS 47.30.700 - 47.30.815 shall also be served on a parent or  
19 guardian of a respondent who is a minor, and parents or guardians of a minor  
20 respondent shall be notified that they may appear as parties in any commitment  
21 proceeding concerning the minor and that as parties they are entitled to retain their  
22 own attorney [OR HAVE THE OFFICE OF PUBLIC ADVOCACY APPOINTED FOR  
23 THEM BY THE COURT]. A minor respondent has the same rights to waiver and  
24 informed consent as an adult respondent under AS 47.30.660 - 47.30.915; however, the  
25 minor shall be represented by counsel in waiver and consent proceedings.

26 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).