

SENATE BILL NO. 400
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR RODEY

Introduced: 2/13/92
Referred: Judiciary, Finance

A BILL
FOR AN ACT ENTITLED

1 "An Act directing the office of public advocacy to establish a child custody and visitation
2 mediation and referral project; requiring evaluation of the project and a report concerning
3 its operation; and providing for an effective date."

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

5 * **Section 1.** AS 25.20.080(a) is amended to read:

6 (a) At any time within 30 days after a petition for child custody is filed under
7 AS 25.20.060 the court may order the parties to submit to mediation under this section or
8 AS 25.20.082. Each party shall have the right to challenge peremptorily one mediator appointed
9 under this section.

10 * **Sec. 2.** AS 25.20 is amended by adding a new section to read:

11 **Sec. 25.20.082. MEDIATION AND REFERRAL PROJECT.** (a) The office of public
12 advocacy shall establish a child custody and visitation mediation and referral project to provide
13 parties a means to amicably resolve child custody and visitation disputes in a cost-effective and
14 expeditious manner while promoting the best interests of children involved in the disputes.

1 (b) Mediation under this section is limited to child custody and visitation disputes and
2 related financial issues involving a child, including child support. However, an agreement setting
3 an amount of child support is subject to court or administrative approval, as appropriate.

4 (c) A party may apply to the project for assistance. The office shall screen applications,
5 according to guidelines adopted by the office, to exclude from mediation a case in which there
6 has been an indication of domestic violence, as defined in AS 18.66.900, or a pattern of
7 harassment of one party by another party or that cannot, for other reasons, fairly be resolved by
8 the mediation process.

9 (d) Under appropriate circumstances, a court may order a party to participate in mediation
10 through the project. If a court orders mediation under this section, the provisions of this section
11 prevail over the provisions of AS 25.20.080.

12 (e) Mediation under this section may be conducted informally and may be conducted as
13 a conference or a series of conferences by telephone or in person. Counsel for a party may only
14 attend a conference that the party attends. Counsel on behalf of a child may attend any
15 conference.

16 (f) The office may contract with private mediators to provide mediation services. The
17 office shall ensure that a mediator has the experience and training to conduct the mediation
18 efficiently, fairly, and in a manner that promotes the best interests of the child.

19 (g) Mediation conferences and files maintained in connection with them are confidential
20 and not subject to inspection or copying under AS 09.25.110 - 09.25.120. Nonidentifying
21 information may be released to the Alaska Judicial Council for purposes of its evaluation of the
22 project.

23 (h) A mediator may not submit a recommendation to a court about the disposition of a
24 dispute for which mediation has occurred under this section and may not be compelled to testify
25 in a custody or visitation proceeding about a project mediation session. However, a mediator is
26 subject to the child abuse reporting requirements of AS 47.17.

27 (i) Mediation under this section is without cost to the participants for the initial session,
28 up to two hours in length. All or part of the cost of subsequent sessions, up to six additional
29 hours, shall be borne by the parties according to their respective abilities to pay, as determined
30 by the office. The office may not provide mediation services under this section for more than
31 a total of eight hours for a particular dispute.

1 (j) The office shall refer an applicant for mediation under this section to public or private
2 organizations that, in the opinion of the office, might benefit the child or parties involved,
3 including domestic violence counseling, if appropriate.

4 (k) In this section,

5 (1) "office" means the office of public advocacy established under AS 44.21.400;

6 (2) "party" means a person having or alleging custody or visitation rights in regard
7 to a child and, when applicable, a guardian ad litem of a minor child;

8 (3) "project" means the child custody and visitation mediation and referral project
9 established under this section.

10 * Sec. 3. AS 44.21.410(a) is amended to read:

11 (a) The office of public advocacy shall

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

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

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

18 (4) provide legal representation in guardianship proceedings to respondents who
19 are financially unable to employ attorneys under AS 13.26.106(b), to indigent parties in cases
20 involving child custody in which the opposing party is represented by counsel provided by a
21 public agency, to indigent parents or guardians of a minor respondent in a commitment
22 proceeding concerning the minor under AS 47.30.775;

23 (5) provide legal representation and guardian ad litem services under
24 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on Juveniles); in
25 cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination
26 of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to
27 remove the disabilities of a minor under AS 09.55.590; in children's proceedings under
28 AS 47.10.050(a); and in cases involving indigent persons who are entitled to representation under
29 AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict
30 of interests;

31 (6) develop and coordinate a program to recruit, select, train, assign, and supervise

1 volunteer guardians ad litem from local communities to aid in delivering services in cases in
2 which the office of public advocacy is appointed as guardian ad litem;

3 (7) provide guardian ad litem services in proceedings under AS 12.45.046; and
4 (8) administer the child custody and visitation mediation and referral project
5 under AS 25.20.082.

6 * Sec. 4. PROJECT EVALUATION; REPORT. The Alaska Judicial Council shall review and
7 evaluate the project established under sec. 2 of this Act and make a report to the legislature by
8 February 15, 1994, with a recommendation as to whether or not it should continue or be modified.

9 * Sec. 5. This Act takes effect July 1, 1992.