

Foster Care

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES



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M E M O R A N D U M

TO: HOUSE HESS COMMITTEE MEMBERS OF THE 15TH
AND 16TH LEGISLATURES

FROM: REP. JOHNNY ELLIS, CHAIR *JE*
HOUSE HESS COMMITTEE

RE: COMMITTEE LEGISLATION RELATED TO FOSTER CARE

DATE: FEBRUARY 9, 1989

During the past interim the House HESS Committee, under the Co-chairmanship of Rep. Koponen and myself, held a series of hearings dealing with the state's foster care system. Based on these hearings, the committee adopted a list of recommendations (attached) suggesting legislative, administrative and funding changes to the foster care system.

We will continue this session to pursue legislative remedies to problems in the foster care system. Attached are three bills and two resolutions, which I plan to introduce as committee legislation next week. This package includes:

- * A bill that more clearly declares the best interests of the child in statute and modifies the criteria for termination of parental rights;
- * A bill that provides for civil liability protection for foster parents;
- * A bill that provides for pre-emancipation services for youths in state custody;
- * A resolution that encourages the continuation of demonstration foster care citizen review boards;
- * A resolution that encourages the establishment of a master of social work program at the University of Alaska.

Memorandum
February 9, 1989
Page Two

In addition to these bills, the committee is supportive of and will hear bills by Senator Fischer, SB 138 regarding foster parent training, and by Representative Collins, HB 19, regarding foster care review boards, as well as a bill that I will introduce establishing an advisory council on foster care. The committee is also interested in other potential legislation, but has refrained from introduction thus far. Measures in this category include expanding the licensure of social workers and easing the confidentiality requirements of minors' records for good cause.

It is my intention to devote a week of hearings to these measures. During that week, we will also receive a briefing from the Division of Family and Youth Services on administrative changes to the system.

At next Tuesday's meeting, we will discuss this and other potential committee legislation. Please contact Jim Nordlund of my staff at 465-3759 with any comments or suggestions regarding the proposed committee legislation.



OFFICIAL BUSINESS

Alaska State Legislature
House of Representatives
COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

PRELIMINARY RECOMMENDATIONS
for the
STATE FOSTER CARE SYSTEM

POUCHV
JUNEAU, AK 99811
465-3759

October 1988

There are few state responsibilities greater than our obligation to care for our most vulnerable citizens: abused, neglected and abandoned children. The state has the moral and legal duty to provide the best possible care so that these children have the chance to become healthy, happy and productive citizens.

We are not doing the best job of fulfilling this mandate. Many children are inadequately served, many are not served at all. Our child protection system is understaffed, overstressed and lacks the resources necessary to provide adequate protection and care. In particular, the state's foster care system needs to do a better job of providing the nurturing environment that the child lacks in the natural home. State law may need to be changed in order to provide clearer direction for the welfare of children.

Recognizing these problems and the possibilities for positive change, the House Health, Education and Social Services Committee has been conducting a comprehensive review of the state's foster care system. The Committee has been working with the cooperation of the Division of Family and Youth Services, the Alaska Foster Parents Association, the Governor's Interim Commission on Children and Youth, plus other concerned organizations, agencies and individuals. The Committee recently completed two days of hearings on the foster care system. What follows is a preliminary list of recommendations for improvement. The Committee is open to additions and further refinement before we move forward with specific legislative action.

As an introduction, we have proposed basic mission and goal statements which will serve as a foundation for the preliminary Committee recommendations which follow. After each of the recommendations is a code which indicates the type of action(s) necessary. The codes mean: \$ = requires funding; L = requires legislation; A = requires administrative regulation, policy or procedural change; ? = action not clear.

Mission: THE BEST INTERESTS OF THE CHILD

The mission of the state's child protection system should be to promote the best interests of the child. Preservation of the family or reunification with a child's natural parents is often the best alternative, but these efforts should be driven by and for the best interests of the child.

- * The state children's code should be reviewed and possibly modified to insure the promotion of the best interests of the child. L

Goal One: SAFETY, STABILITY AND PERMANENCY FOR CHILDREN

Beyond initial efforts to insure a child's safety, the state's highest priority should be the ultimate stability and permanency of the child. The best efforts must be made to keep families together, if appropriate, or to reunify, if possible. If these options are not possible, the state should consider quick action to terminate parental rights, reduce the length of time a child lingers in temporary foster care, and secure a long-term nurturing home for the child or prepare the child for emancipation.

- * Expand intensive homebased family treatment programs to more quickly get help to families and determine the fate of the child. Funding could come from saved foster care stipends. Treatment should include an alcohol and drug abuse component. §
- * Clarify criteria for termination of parental rights so that the best interests of the child and the child's need for a permanent plan are highest priorities. Consider different standards for different ages. L
- * Change confidentiality statutes so that foster parents and others with a "need to know" have access to information. L
- * Continue pilot citizen review permanency planning board projects in Anchorage and Sitka. §
- * Create a permanent, state-wide citizen review board system. L, §
- * Expand the role of foster parents as part of the permanency planning team. A
- * Make greater use of subsidized adoption; beyond just hard to place kids. ?
- * Establish use of subsidized guardianships to increase stability of certain placements. L, §
- * Make long term foster care more viable. A, §
- * Establish minimum standards for emancipation. L
- * Provide more pre-emancipation services for youth. L, §
- * Examine the impediments to adoption. A

Goal Two: IMPROVEMENTS IN FOSTER CARE

Recognizing that temporary foster care placement will always be necessary and that long term foster care is an important permanent placement alternative, the foster care system must be improved to provide better care for children and to enable foster parents to be better guardians.

- * Establish expanded and mandatory training for foster parents. L, \$
- * Provide additional respite care services for foster parents. Include respite on a regular basis, not only in emergencies. Use other services for respite, e.g. Big Brothers/Sisters. Consider using foster parent groups to coordinate respite program. \$, A
- * Correct problems with late stipends. Examine payment system and possibly contract out. A
- * Finalize grievance procedure. Consider using unified form that includes grievances, liability claims, problems with foster kids, and recommendations for change. Provide for stop action clause as part of the grievance procedure or elsewhere. A
- * Establish Foster Care Advisory Board. L, \$
- * Improve foster care liability insurance. Have claims go directly to Risk Management. Dovetail with state self insurance. L?, A, \$?
- * Insure state defense of foster parents in lawsuits. ?
- * Develop a system that combines foster parent training, competency levels and rate augmentation. A
- * Develop better targeted recruitment of foster parents. A
- * Provide better orientation for foster parents. A
- * Establish complaint investigations of foster parents by a neutral party. L?, A
- * Provide funding for foster parent networking/support. \$
- * Examine charges of Department retaliation against foster parents. ?

Goal Three: IMPROVEMENTS FOR DFYS

The fate of foster children lies primarily with the Division of Family and Youth Services. The Division does not have the necessary resources to provide for adequate protection and care of children. Social workers are overworked, largely undertrained and too often mired in paperwork. Huge caseloads do not allow for adequate attention to particular cases. Other aspects of the child protection system should be modified so the state can do a better job.

- * Devote additional resources to reduce social worker case loads. \$

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- * Devote additional resources to reduce social worker case loads. \$

6-0717A
Lauterbach
2/9/89

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to programs and proceedings concern-
7 ing children; and emphasizing that the best interests
8 of the child must be considered under certain pro-
9 grams and during certain proceedings involving chil-
10 dren."

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

12 * Section 1. AS 47.05.060 is amended to read:

13 Sec. 47.05.060. PURPOSE AND POLICY RELATING TO CHILDREN. The
14 purpose of this title as it relates to children is to secure for each
15 child the care and guidance [, PREFERABLY IN THE CHILD'S OWN HOME,]
16 that will serve the moral, emotional, mental, and physical welfare of
17 the child and the best interests of the community; to preserve and
18 strengthen the child's family ties to the extent that those ties are
19 in the best interests of the child [WHENEVER POSSIBLE], removing the
20 child from the custody of the parents only when necessary because [AS
21 A LAST RESORT WHEN] the child's welfare or safety or the protection of
22 the public cannot be adequately safeguarded without removal; and, when
23 the child is removed from the family, to secure for the child adequate
24 custody and care.

25 * Sec. 2. AS 47.10.080(c) is amended to read:

26 (c) If the court finds that the minor is a child in need of aid,
27 it shall

28 (1) order the minor committed to the department for place-
29 ment in an appropriate setting for a period of time not to exceed two

1 years or in any event past the date the minor becomes 19 years of age.
2 except that the department may petition for and the court may grant in
3 a hearing (A) two-year extensions of commitment which do not extend
4 beyond the minor's 19th birthday if the extension is in the best
5 interests of the minor and the public; and (B) an additional one-year
6 period of supervision past age 19 if the continued supervision is in
7 the best interests of the person and the person consents to it; the
8 department may transfer the minor, in the minor's best interests, from
9 one placement setting to another, and the minor, the minor's parents
10 or guardian, and the minor's attorney are entitled to reasonable
11 notice of the transfer;

12 (2) order the minor released to the minor's parents, guard-
13 ian, or some other suitable person, and, in appropriate cases, order
14 the parents, guardian, or other person to provide medical or other
15 care and treatment; if the court releases the minor, it shall direct
16 the department to supervise the care and treatment given to the minor,
17 but the court may dispense with the department's supervision if the
18 court finds that the adult to whom the minor is released will ade-
19 quately care for the minor without supervision; the department's
20 supervision may not exceed two years or in any event extend past the
21 date the minor reaches age 19, except that the department may petition
22 for and the court may grant in a hearing

23 (A) two-year extensions of supervision which do not
24 extend beyond the minor's 19th birthday if the extension is in
25 the best interests of the minor and the public; and

26 (B) an additional one-year period of supervision past
27 age 19 if the continued supervision is in the best interests of
28 the person and the person consents to it; or

29 (3) by order, upon a showing in the adjudication by clear

1 and convincing evidence that there is a child in need of aid under
2 AS 47.10.010(a)(2) as a result of parental conduct and upon a showing
3 in the disposition by clear and convincing evidence that the parental
4 conduct is likely to continue to exist if there is no termination of
5 parental rights, terminate parental rights and responsibilities of one
6 or both parents and commit the child to the department or to a legally
7 appointed guardian of the person of the child, and the department or
8 guardian shall report annually to the court on efforts being made to
9 find a permanent placement for the child; there is a rebuttable pre-
10 sumption in a proceeding under this paragraph that the parental con-
11 duct is likely to continue if there is no termination of a person's
12 parental rights upon a showing by clear and convincing evidence that
13 the person has failed, without good cause, to substantially partici-
14 pate in services offered by the department that were determined by a
15 court to be appropriate for facilitating reunification of the child
16 with the parent or in equivalent services; in order to establish the
17 presumption described in this paragraph, the department shall also
18 show by clear and convincing evidence that it provided assistance to
19 the parent to enable the parent to participate in the services offered
20 by the department.

21 * Sec. 3. AS 47.17.010 is amended to read:

22 Sec. 47.17.010. PURPOSE. In order to protect children whose
23 health and well-being may be adversely affected through the inflic-
24 tion, by other than accidental means, of harm through physical abuse
25 or neglect or sexual abuse or sexual exploitation, the legislature
26 requires the reporting of these cases by practitioners of the healing
27 arts and others to the appropriate public authorities. It is the
28 intent of the legislature that, as a result of these reports, protec-
29 tive services will be made available in an effort to prevent further

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harm to the child, to safeguard and enhance the general well-being of the children in this state, and to preserve family life to the extent that it is in the best interests of the child to do so [WHENEVER POSSIBLE].

6-0752A
Lauterbach
2/8/89

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to civil liability and uninsured
7 property losses related to foster children."

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

9 * Section 1. AS 09.65 is amended by adding a new section to read:

10 Sec. 09.65.093. CIVIL LIABILITY RELATED TO FOSTER CARE. (a)

11 Notwithstanding other provisions of law, the foster parent, a state
12 employee, and a representative of the state are not liable for civil
13 damages as a result of

14 (1) acts or omissions by a minor placed in the care of the
15 foster parent under AS 47; or

16 (2) negligent acts or omissions by the foster parent, state
17 employee, or representative of the state that result in harm to a
18 minor placed in the care of the foster parent under AS 47.

19 (b) This section does not preclude liability for civil damages
20 as a result of gross negligence or reckless or intentional misconduct
21 of a foster parent, state employee, or representative of the state.

22 * Sec. 2. AS 47.35 is amended by adding a new section to read:

23 Sec. 47.35.110. UNINSURED PROPERTY LOSS. (a) The state shall
24 reimburse a licensed foster parent for the uninsured loss of, or
25 uninsured damage to, tangible property under the lawful control of a
26 foster parent to the extent that the loss or damage exceeds \$100 if
27 the loss or damage resulted from the intentional misconduct of a child
28 in the custody of the state who was placed in the care of the foster
29 parent under this title.

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(b) Under the conditions described in (a) of this section, the state may reimburse a foster parent for an uninsured loss or uninsured damage that does not exceed \$100.

6-0691A
Lauterbach
1/27/89

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the pre-emancipation services for
7 certain minors."

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

9 * Section 1. AS 47.10.080(b) is amended to read:

10 (b) If the court finds that the minor is delinquent, it shall

11 (1) order the minor committed to the Department of Health
12 and Social Services for a period of time that does not [TO] exceed two
13 years and that does not [OR IN ANY EVENT] extend past the minor's 19th
14 birthday [DAY THE MINOR BECOMES 19], except that the department may
15 petition for and the court may grant in a hearing (A) two-year ex-
16 tensions of commitment that [WHICH] do not extend beyond the minor's
17 [CHILD'S] 19th birthday if the extension is in the best interests of
18 the minor and the public; and (B) an additional one-year period of
19 supervision past the minor's 19th birthday [AGE 19] if continued
20 supervision is in the best interests of the minor or the minor is
21 receiving pre-emancipation services, [PERSON] and the minor [PERSON]
22 consents to the additional period of supervision [IT]; the department
23 shall place the minor in the juvenile facility [WHICH] the department
24 considers appropriate, [AND] which may include a juvenile correctional
25 school, detention home, or detention facility; the minor may be re-
26 leased from placement or detention and placed on probation on order of
27 the court and may also be released by the department, in its dis-
28 cretion, under AS 47.10.200;

29 (2) order the minor placed on probation, to be supervised

1 by the department, and released to the minor's parents, guardian, or a
2 suitable person; if the court orders the minor placed on probation, it
3 may specify the terms and conditions of probation; the probation may
4 be for a period of time that does [,] not [TO] exceed two years and
5 that does not [IN NO EVENT] extend past the minor's 19th birthday [DAY
6 THE MINOR BECOMES 19], except that the department may petition for and
7 the court may grant in a hearing

8 (A) two-year extensions of supervision that [WHICH] do
9 not extend beyond the minor's [CHILD'S] 19th birthday, if the
10 extension is in the best interests of the minor and the public;
11 and

12 (B) an additional one-year period of supervision past
13 the minor's 19th birthday, [AGE 19] if the continued supervision
14 is in the best interests of the minor [PERSON] and the minor
15 [PERSON] consents to it;

16 (3) order the minor committed to the department and placed
17 on probation, to be supervised by the department, and released to the
18 minor's parents, guardian, other suitable person, or suitable non-
19 detention setting such as a family home, group care facility, [OR]
20 child care facility, or supervised independent residence, whichever
21 the department considers appropriate to implement the treatment plan
22 of the predisposition report; if the court orders the minor placed on
23 probation, it may specify the terms and conditions of probation; the
24 department may transfer the minor, in the minor's best interests, from
25 one of the probationary placement settings listed in this paragraph to
26 another, and the minor, the minor's parents or guardian, and the
27 minor's attorney are entitled to reasonable notice of the transfer;
28 the probation may be for a period of time that does not [, NOT TO]
29 exceed two years and that does not [IN NO EVENT] extend past the

1 minor's 19th birthday [DAY THE MINOR BECOMES 19], except that the
2 department may petition for and the court may grant in a hearing

3 (A) two-year extensions of commitment that [WHICH] do
4 not extend beyond the minor's [CHILD'S] 19th birthday, if the
5 extension is in the best interests of the minor and the public;
6 and

7 (B) an additional one-year period of supervision past
8 the minor's 19th birthday, [AGE 19] if the continued supervision
9 is in the best interests of the minor or the minor is receiving
10 pre-emancipation services, [PERSON] and the minor [PERSON] con-
11 sents to the additional period of supervision; [IT; OR]

12 (4) order the minor to make suitable restitution in lieu of
13 or in addition to the court's order under (1), (2) or (3) of this
14 subsection; or [.]

15 (5) order the minor committed to the Department of Health
16 and Social Services for placement in an adventure-based education
17 program established under AS 47.21.020 with conditions the court
18 considers appropriate concerning release upon satisfactory completion
19 of the program or commitment under (1) of this subsection if the
20 program is not satisfactorily completed.

21 * Sec. 2. AS 47.10.080(c) is amended to read:

22 (c) If the court finds that the minor is a child in need of aid,
23 it shall

24 (1) order the minor committed to the department for place-
25 ment in an appropriate setting, which may include a supervised in-
26 dependent residence, for a period of time that does not [TO] exceed
27 two years and that does not extend [OR IN ANY EVENT] past the minor's
28 19th birthday [DATE THE MINOR BECOMES 19 YEARS OF AGE], except that
29 the department may petition for and the court may grant in a hearing

1 (A) two-year extensions of commitment that [WHICH] do not extend
2 beyond the minor's 19th birthday, if the extension is in the best
3 interests of the minor and the public; and (B) an additional one-year
4 period of supervision past the minor's 19th birthday, [AGE 19] if the
5 continued supervision is in the best interests of the minor or the
6 minor is receiving pre-emancipation services, [PERSON] and the minor
7 [PERSON] consents to the additional period of supervision [IT]; the
8 department may transfer the minor, in the minor's best interests, from
9 one placement setting to another, and the minor, the minor's parents
10 or guardian, and the minor's attorney are entitled to reasonable
11 notice of the transfer;

12 (2) order the minor released to the minor's parents, guard-
13 ian, or some other suitable person, and, in appropriate cases, order
14 the parents, guardian, or other person to provide medical or other
15 care and treatment; if the court releases the minor, it shall direct
16 the department to supervise the care and treatment given to the minor,
17 but the court may dispense with the department's supervision if the
18 court finds that the adult to whom the minor is released will ade-
19 quately care for the minor without supervision; the department's
20 supervision may not exceed two years and may not [OR IN ANY EVENT]
21 extend past the minor's 19th birthday [DATE THE MINOR REACHES AGE 19],
22 except that the department may petition for and the court may grant in
23 a hearing

24 (A) two-year extensions of supervision that [WHICH] do
25 not extend beyond the minor's 19th birthday, if the extension is
26 in the best interests of the minor and the public; and

27 (B) an additional one-year period of supervision past
28 the minor's 19th birthday, [AGE 19] if the continued supervision
29 is in the best interests of the

1 [PERSON] consents to it; or

2 (3) by order, upon a showing in the adjudication by clear
3 and convincing evidence that there is a child in need of aid under
4 AS 47.10.010(a)(2) as a result of parental conduct and upon a showing
5 in the disposition by clear and convincing evidence that the parental
6 conduct is likely to continue to exist if there is no termination of
7 parental rights, terminate parental rights and responsibilities of one
8 or both parents and commit the child to the department or to a legally
9 appointed guardian of the person of the child, and the department or
10 guardian shall report annually to the court on efforts being made to
11 find a permanent placement for the child.

12 * Sec. 3. AS 47.10.230 is amended by adding new subsections to read:

13 (h) The department shall provide appropriate pre-emancipation
14 services to a child 16 years of age or older who has been committed to
15 the custody of the department and who makes a request to receive the
16 services, unless the department finds that pre-emancipation services
17 are inappropriate for the child. The commissioner shall adopt regu-
18 lations establishing criteria for determining whether pre-emancipation
19 services are inappropriate for a child. The services may include

20 (1) assistance in completing academic or vocational train-
21 ing designed to make the child employable;

22 (2) assistance in acquiring suitable housing;

23 (3) training in skills needed for independent living;

24 (4) assistance in petitioning for removal of the disabili-
25 ties of minority; and

26 (5) social support and services coordination.

27 (i) The department may award a grant to or contract with a
28 municipality or with an entity incorporated under AS 10.20 to provide
29 pre-emancipation services under (h) of this section. The commissioner

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shall adopt regulations establishing criteria for the award of grants under this subsection.