

H B

175

Am 0 p 4

Original sponsor: Health, Education and
Social Services Committee

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 175 (Judiciary)
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 construction of laws pertain-
7 ing to adoption; modifying policy statements relating
8 to strengthening a child's family ties or family
9 life; relating to review of orders in certain chil-
10 dren's proceedings; and modifying the definition of
11 'child abuse or neglect'."

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

13 * Section 1. AS 25.23 is amended by adding a new section to read:

14 Sec. 25.23.005. CONSTRUCTION OF CHAPTER; RIGHTS OF PERSONS
15 AFFECTED BY ADOPTION. This chapter shall be liberally construed to
16 the end that the best interests of adopted children are promoted. Due
17 regard shall be given to the rights of all persons affected by a
18 child's adoption.

19 * Sec. 2. AS 47.05.060 is amended to read:

20 Sec. 47.05.060. PURPOSE AND POLICY RELATING TO CHILDREN. The
21 purpose of this title as it relates to children is to secure for each
22 child the care and guidance, preferably in the child's own home, that
23 will serve the moral, emotional, mental, and physical welfare of the
24 child and the best interests of the community; to preserve and
25 strengthen the child's family ties unless efforts to preserve and
26 strengthen the ties are likely to result in physical or emotional
27 damage to the child [WHENEVER POSSIBLE], removing the child from the
28 custody of the parents only as a last resort when the child's welfare
29 or safety or the protection of the public cannot be adequately

1 safeguarded without removal; and, when the child is removed from the
2 family, to secure for the child adequate custody and care and adequate
3 planning for permanent placement of the child. *including notice to the parents and the*
probation officer

4 * Sec. 3. AS 47.10.080(f) is amended to read:

5 (f) A minor found to be delinquent or a child in need of aid is
6 a ward of the state while committed to the department or the depart-
7 ment has the power to supervise the minor's actions. The court shall
8 review an order made under (b) or (c)(1) or (2) of this section an-
9 nually, and may review the order more frequently to determine if
10 continued placement, probation, or supervision, as it is being pro-
11 vided, is in the best interest of the minor and the public. If annual
12 review under this subsection would arise within 90 days of the hearing
13 required under (1) of this section, the court may postpone review
14 under this subsection until the time set for the hearing. The depart-
15 ment, the minor, the minor's parents, guardian, or custodian *& the prob. officer* are
16 entitled, when good cause is shown, to a review on application. If
17 the application is granted, the court shall afford these parties and
18 their counsel reasonable notice in advance of the review and hold a
19 hearing where these parties and their counsel shall be afforded an
20 opportunity to be heard. The minor shall be afforded the opportunity
21 to be present at the review. At any review conducted under this
22 subsection, whether or not by hearing, the court shall make written
23 findings of fact and conclusions of law regarding the following is-
24 sues:

25 (1) why the child was removed from the home;

26 (2) what services have been provided to or offered to the
27 parents to facilitate reunion;

28 (3) what services were utilized by the parents to facili-
29 tate reunion;

1 (4) the visitation history between the parents and the
2 child;

3 (5) whether additional services are needed to facilitate
4 the return of the child to the child's parents;

5 (6) when return of the child can be expected;

6 (7) whether, under the circumstances of the case, reason-
7 able efforts are being made to promote family reunification or other-
8 wise address permanency planning.

9 * Sec. 4. AS 47.10.080 is amended by adding a new subsection to read:

10 (1) Within 18 months of the date a minor is initially committed
11 to the department under AS 47.10.142(e), the court shall hold a hear-
12 ing to review the placement and services provided and to determine the
13 future status of the minor. The court shall make appropriate written
14 findings, including findings related to the following:

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

16 (2) whether the child should remain in foster care for a
17 specified period; *in any placement of redemptive child, preference given to placement of*
18 *Sec 105(1) foster, other children*

18 (3) whether the child should be placed for adoption;

19 (4) whether the child should remain in foster care on a
20 permanent or long-term basis because of special needs.

21 * Sec. 5. 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

1 harm to the child, to safeguard and enhance the general well-being of
2 the children in this state, and to preserve family life unless those
3 efforts are likely to result in ^{substantiated} physical or emotional damage to the
4 child [WHENEVER POSSIBLE].

5 * Sec. 6. AS 47.17.070(2) is amended to read:

6 (2) "child abuse or neglect" means the physical injury or
7 neglect, mental injury, sexual abuse, sexual exploitation, or mal-
8 treatment of a child under the age of 18 by a person who is responsi-
9 ble for the child's welfare under circumstances which indicate that
10 the child's health or welfare is harmed or threatened thereby; in this
11 paragraph, "mental injury" means an injury to the intellectual or
12 psychological capacity of a child, as evidenced by an observable and
13 substantial impairment in the child's ability to function within the
14 normal range of performance and behavior, with due regard to the
15 child's ^{religion and} culture;

16 * Sec. 7. AS 47.10.083 is repealed.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 28, 1990

SUBJECT: Comparison of CSSB 450(Jud)
with SCS CSHB 175(Jud)

TO: Senator Jan Faiks, Chair
Senate Judiciary Committee

FROM: Terri Lauterbach *TL*
Legislative Counsel

Enclosed is SCS CSHB 175(Jud).

As requested by Chris Christensen, I examined sections 4 and 5 of SCS CSHB 175() to determine whether changes were needed to avoid conflict with amendments to the same laws in CSSB 450(Jud).

As a result of my review, I have determined that there is no conflict created by sec. 4; the additional language of both CS's, if enacted, would be added by the revisor to AS 47.-17.010. There was conflict created by sec. 5 of the "blank" SCS, so I have changed it so that this draft conforms to the definitions of "child abuse or neglect" and "mental injury" in CSSB 450(Jud).

Please let me know if I can be of further assistance.

TL:gc
G13/114

Enclosure

Original sponsor(s): HESS Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 175 (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 the construction of laws pertain-
7 ing to adoption; modifying policy statements relating
8 to strengthening a child's family ties or family
9 life; relating to review of orders in certain chil-
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18 child's adoption.

19 * Sec. 2. AS 47.05.060 is amended to read:

20 Sec. 47.05.060. PURPOSE AND POLICY RELATING TO CHILDREN. The
21 purpose of this title as it relates to children is to secure for each
22 child the care and guidance, preferably in the child's own home, that
23 will serve the moral, emotional, mental, and physical welfare of the
24 child and the best interests of the community; to preserve and
25 strengthen the child's family ties unless efforts to preserve and
26 strengthen the ties are likely to result in physical or emotional
27 damage to the child [WHENEVER POSSIBLE], removing the child from the
28 custody of the parents only as a last resort when the child's welfare
29 or safety or the protection of the public cannot be adequately

1 safeguarded without removal; and, when the child is removed from the
2 family, to secure for the child adequate custody and care and adequate
3 planning for permanent placement of the child.

4 * Sec. 3. AS 47.10.083 is repealed and reenacted to read:

5 Sec. 47.10.083. REVIEW OF ORDERS, REQUESTS FOR EXTENSIONS. In a
6 review under AS 47.10.080(f) and in a hearing related to a request for
7 extended commitment or extended supervision under AS 47.10.080(c)(1)
8 or (2), the court shall, in addition to the requirements of those
9 provisions and the requirements of court rules, determine whether a
10 child continues to be a child in need of aid at the time of the review
11 or hearing. The court may not continue or extend state custody or
12 supervision of the child unless the court finds that the child contin-
13 ues to be a child in need of aid except that, if the child is no
14 longer a child in need of aid, the court may establish a specific
15 timetable for gradual reunification of the family and termination of
16 state custody or supervision if the court makes a finding that immedi-
17 ate reunification would be detrimental to the child.

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

27 (1) prevent further harm to the child; [,]

28 (2) [TO] safeguard and enhance the general well-being of

29 [THE] children in this state; [,] and

1 (3) [TO] preserve family life unless that effort is likely
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3 POSSIBLE].

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5 (2) "child abuse or neglect" means the physical injury or
6 neglect, mental injury, sexual abuse, sexual exploitation, or mal-
7 treatment of a child under the age of 18 by a person [WHO IS RESPONS-
8 IBLE FOR THE CHILD'S WELFARE] under circumstances that [WHICH] indi-
9 cate that the child's health or welfare is harmed or threatened there-
10 by; in this paragraph, "mental injury" means an injury to the emotion-
11 al well-being, or intellectual or psychological capacity of a child,
12 as evidenced by an observable and substantial impairment in the
13 child's ability to function;

LETTER OF INTENT
TO ACCOMPANY
HOUSE BILL 175

It is the intent of the Legislature that the court, in carrying out its continuing jurisdiction to review and extend disposition orders, determine whether the child continues to be a Child in Need of Aid. To this end, it is suggested that the Supreme Court make appropriate revisions to Child in Need of Aid Rule 19 to insure that such findings are made at annual review, review upon application, and extension of custody/supervision proceedings.

6-0717G
Lauterbach
2/21/90

Original sponsor(s): HESS Committee

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 175 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

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11 psychological capacity of a child, as evidenced by an observable and
12 substantial impairment in the child's ability to function within the
13 normal range of performance and behavior, with due regard to the
14 child's culture;
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A M E N D M E N T

TO: CSHB 175 (Judiciary)

Page 3, line 21, to page 4, line 4:

Delete bill section 5 in its entirety.

Insert:

"* Sec. 5. AS 47.17.010 is amended to read:

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(1) prevent further harm to the child; [,]

(2) [TO] safeguard and enhance the general well-being of [THE] children in this state; [,] and

(3) [TO] preserve family life unless that effort is likely to result in physical or emotional damage to the child [WHENEVER POSSIBLE]."

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to programs
& proceedings concerning children...
Sponsor: House HF Committee
Requestor: _____

Agency Affected: Health & Social Services
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) Although CSHB 175 has a zero fiscal note, the legislation has potentially serious financial implications. If CSHB 175 does not become law, the Department will likely lose approximately \$100,000 in federal grant funds which are currently used for child abuse and neglect programs within Alaska.

Prepared by: Yvonne Chase, Director *Yvonne Chase* Phone: 465-3170
Division: Family and Youth Services Date: 4-6-89

Approved by Commissioner: Myra M. Munson *Myra M. Munson* Date: 4-6-89
Agency: Department of Health & Social Services

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date	<u>3/2/90</u>	Agency Affected:	<u>Alaska Court System</u>
Title:	<u>An Act relating to the construction of laws pertaining to adoption...</u>	BRU:	<u>Trial Courts</u>
Sponsor:	<u>HESS</u>	Components:	
Requestor:	<u>Judiciary</u>		

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
Personal Services						
Travel						
Contractuals						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

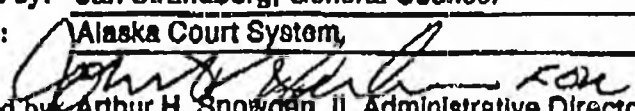
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Jan Strandberg, General Counsel
 Division: Alaska Court System,

 Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System

Phone: 284-8228
 Date: 03/02/90
 Date: 03/02/90

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management & Budget
 Impacted Agency(ies)

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HB 175

H. NESS	3/9/89
H. NESS	3/10/89
H. NESS	4/6/89

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4712
465-4968/4986
(SESSION)

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

January 31, 1990

Karen Robert-Strong
Director, Human Services
P.O. Box 1450
Sitka, Alaska 99835

RECEIVED

FEB 2 1990

JAN FAIKS
SENATE OFFICE

Dear Ms. Strong:

Thank you for your letter of November 22 and proposed amendments to HB 175.

As I indicated to you in my letter of the same date, I am most anxious to keep this legislation as non-controversial and "clean" as possible. The amendments you have suggested would certainly slow the bill down and possibly impede its passage significantly. For this reason, I am reluctant at this late date, when the bill is in its final committee of referral, to make the changes you suggest. However I would be happy to look at these as part of separate legislation if that is introduced.

I very much appreciated your advice and suggestions and hope you will continue to keep in touch.

Cordially,

A handwritten signature in cursive script that reads "Max Gruenberg".

Max F. Gruenberg, Jr.

MFG:lrh

MEMORANDUM

STATE OF ALASKA

TO: Jay ^{Russ W}_{Lively}

DATE: January 12, 1990

THRU: ^{Russ}_{Webb}
Director

FILE NO: 189

Martha Holmberg
Field Administrator

SUBJECT: Mental Injury

FROM: Vicki Koehler ^{Vicki Koehler}
Program Coordinator

I contacted Kathy Admire, the Region X specialist for NCAN. She obtained several definitions of mental injury from other states for me, which she will also include in her forthcoming letter to Russ. I suggest that we propose the following three definitions as all acceptable to both the Division and the federal government, and let the sponsor and/or the committee select the one they favor. I have listed them in the order I favor!

1. "mental injury means an observable or substantial impairment in the child's ability to function within the normal range of performance and behavior, with due regard to the child's culture"; (a revision of our current proposed definition)
2. "mental injury to a child shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child;" (Oregon)
3. "Mental injury means a substantial impairment to the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior." (Idaho)



State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

RECEIVED

November 22, 1989

NOV 22 1989

JAN FAIKS
SENATE OFFICE

Karen Strong
Director, Human Services
Sitka Community Association
P. O. Box 1450
Sitka, Alaska 99835

Dear Ms. Strong:

Thank you for your testimony on CS HB 175 (Judiciary) on November 21. I hope to receive the information requested by my legislative assistant, Mark Handley, in his phone conversation with you, within the next few days.

As you know, about \$100,000.00 of federal funds are dependent on the immediate passage of HB 175. It is my intention to try to get the bill to the Senate Floor as quickly as possible at the beginning of the session in January. I will be out of town beginning December 19. Moreover the bill title is extremely restrictive and will not accommodate many changes outside the specific statutes presently addressed.

I suspect that it may not be possible to address your concerns within this time frame. I do not want to jeopardize federal funding for our state children's service programs.

I'm also concerned that the changes you recommend may not be the most effective way to deal with the problem of state compliance with the Indian Child Welfare Act.

The State Department of Health and Social Services is presently considering introducing a bill which would change the court rule to require notification in private adoption of Native children.

We have been unable to reach Elaine Schwartz, the individual who provided you with the information regarding non-compliance in adoption cases.

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4712
465-4968/4986
(SESSION)

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

*Read
NRW
Chris
FYE*

Please send us in writing your suggested amendments to HB 175
within the next five days.

Cordially,

Max Gruenberg / C.Z.

Max F. Gruenberg, Jr.

MFG:cl

cc: Senator Jan Faiks

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



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JUNEAU, ALASKA 99811
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914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

November 21, 1989

MEMORANDUM

TO: Senator Jan Faiks, Chair
Senate Judiciary Committee

FROM: Representative Max Gruenberg

RE: CSHB 175 (Judiciary), Children's Laws Revisions

The following summarizes this bill, which is in your committee today.

SUMMARY

The bill establishes a policy for the state adoption code. It makes revisions in the policy statute governing children's cases (child-in-need-of-aid and delinquency). It makes similar revisions in the purposes section of the child abuse reporting code. It sets standards for review hearings in child-in-need-of-aid cases. It requires reporting of child abuse or neglect resulting from mental injury, which is defined.

SECTIONAL ANALYSIS

Section 1. Adopts a purposes section in the adoption code. Requires that adoption laws be construed primarily to protect the best interests of the adopted child, but with regard for the rights of all parties. Modeled on New Jersey and California laws.

Section 2. Amends the purposes section in the child-in-need-of-aid and delinquency code. Present law requires that the child's family ties be strengthened and preserved "whenever possible." Amendment requires family ties to be strengthened and preserved "unless efforts to preserve and strengthen the ties are likely to result in physical or

emotional damage to the child." Also requires, for the first time, that the state make "adequate planning for permanent placement for the child." This will require permanency planning for the children in foster care and stop "foster care drive."

Section 3. Enacts new federal standards for annual court reviews in children's cases (child-in-need-of-aid) and delinquencies). Requires the court to make written findings of fact and conclusions of law as to why the child was removed from the home, the services provided, the visitation history with the parents, whether additional services are needed, when the child can be expected to be returned to the home, or whether other permanency planning (e.g. adoption) should occur.

Section 4. Requires, within 18 months of the initial commitment as a child-in-need-of-aid, that there be a review hearing for the court to look at the placement and services the Division of Family and Youth Services has provided for the child. The court must make specific written findings as to whether the child should be returned to the parent, remain in foster care for a specified period, or remain in foster care permanently or long-term because of special needs, or whether the child should be placed for adoption. It brings Alaska into compliance with federal standards.

Section 5. Amends child abuse reporting statutes, using the same language as in Section 2, requiring reporting to preserve family life unless such efforts are likely to result in physical or emotional damage to the child.

Section 6. Requires reporting of child abuse or neglect resulting from "mental injury." Defines "mental injury" to mean an injury to the intellectual or psychological capacity of the child, as evidenced by an observable and substantial impairment in the child's ability to function within the normal range of performance and behavior, with due regard to the child's culture. This is the definition currently utilized by DHSS. This section is required under federal law. The state receives approximately \$100,000 per year, which will be denied in the future unless "mental injury" is included in the reporting statutes. Alaska's last waiver ended on October 1, 1989, so this language must pass the legislature this year or we will lose additional federal money.

Section 7. Repeals AS 47.10.083, which will be incorporated in AS 47.10.080(f) in Section 3 of the bill.

This bill contains extremely important changes for the children's laws. It is short, but vital. I urge your support of the bill in committee and on the Senate Floor.

Thank you.

[memol75.txt]

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



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Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

May 1, 1989

MEMORANDUM

TO: All House Members
FROM: Rep. Max Gruenberg
RE: CSMB 175 (Jud), Children's Laws Revisions

The following summarizes this bill, which is on the floor today.

SUMMARY

The bill enacts the policy for the state adoption code. It makes revisions in the policy statute governing children's cases (child in need of aid and delinquency). It makes similar revisions in the purpose section of the child abuse reporting code. It sets standards for review hearings in child in need of aid cases. It requires reporting of child abuse or neglect resulting from mental injury, which is defined.

SECTIONAL ANALYSIS

Section 1. Adopts a purposes section in the adoption code. Requires that adoption laws be deliberately construed to protect the best interests of the adopted child, given due regard to the rights of all persons involved. Modeled on New Jersey and California laws.

Section 2. Amends purposes section in child in need of aid and delinquency laws. Present law requires that the child's family ties be strengthened and preserved "whenever possible." Amendment requires family ties to be strengthened and preserved "unless efforts to preserve and strengthen the ties are likely to result in physical or emotional damage to the child." Also requires, for the first time, that the state

make "adequate planning for permanent placement for the child." This will require permanency planning for children in foster care and stop "foster care drift".

Section 3. Enacts new federal standards for annual court reviews in children's cases (child in need of aid and delinquencies). Requires the court to make written findings of fact and conclusions of law as to why the child was removed from the home, the services provided, the visitation history with the parents, whether additional services are needed, when the child can be expected to be returned to the home, or whether other permanency planning (e.g. adoption) should occur.

Section 4. Requires, within 18 months of the initial commitment as a child in need of aid, that there must be a review hearing for the court to look at the placement and services provided for the child. The court must make specific written findings as to whether the child should be returned to the parent, remain in foster care for a specified period or permanently or long-term, or whether the child should be placed for adoption. It brings Alaska into compliance with federal standards.

Section 5. Amends child abuse reporting statutes, using the same language as in Section 2, requiring reporting to preserve family life unless such efforts are likely to result in physical or emotional damage to the child.

Section 6. Requires reporting of child abuse or neglect resulting from "mental injury". Defines "mental injury" to mean an injury to the intellectual or psychological capacity of the child, as evidenced by an observable and substantial impairment in the child's ability to function within the normal range of performance and behavior with due regard to the child's culture. This is the definition currently utilized by DHSS. This section is required under federal law. The state receives approximately \$100,000 per year, which will be denied in the future unless "mental injury" is included in the reporting statutes. Alaska is on the last year of a four-year waiver, so this language must pass the legislature this year.

Section 7. Repeals AS 47.10.083, which is now incorporated in Section 3 of the bill. The language of AS 47.10.083 will be incorporated in AS 47.10.080(f) in Section 3 of the bill.

This bill contains extremely important changes for the children's laws. It is short, but vital. I urge your support of the bill on the floor.

Thank you.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

PERMANENCY FOR DEPENDENT CHILDREN

AN INNOVATIVE PROJECT

March 1989

Every child should have the right to a permanent and safe home.

DOES EVERY CHILD HAVE A PERMANENT HOME?

No! At any time in Alaska 900 to 1,100 children are in out of home care. Today, there are 222 children in the custody of the State of Alaska who have been in continuous out of home care for more than two years.

Although most children in custody will return to their own homes, for some, termination of parental rights is the only way they will ever have a chance for a permanent family. A quick survey throughout the state revealed that there have been approximately 35 cases of nonvoluntary terminations of parental rights during the past 18 months. There have also been five guardianships, 17 relinquishments, and there are approximately 50 cases pending termination. Some parts of the state have not had a termination of parental rights case before the court for ten years.

More must be done to assure a permanent home for every dependent child. Better assessment and focused treatment are needed to help the child's parents, and, when that is unsuccessful, faster, more definitive action is needed to make a permanent, substitute home possible for the child.

WHAT CAN BE DONE TO ASSURE PERMANENCY FOR CHILDREN?

The Division of Family and Youth Services (DFYS), together with the Department of Law, is launching a new project, Permanency for Dependent Children (PDC). This project will be implemented in Nome, Bethel, Barrow, Fairbanks, Juneau, Anchorage, and Ketchikan by July 1, 1989. Training to prepare staff will occur in June.

The goals of PDC are to speed up recognition of those cases in which termination of parental rights, or another permanent plan, should be pursued and to reduce delays in court action necessary to achieve the permanent plan. There are many components to achieving these goals:

Permanency Planning Court Specialists --

At least one permanency planning court specialist will be identified and trained in each of the offices listed above. The social workers will be trained as a team so that standardized procedures are developed statewide and so that these specialists have special support for their work.

The court specialists will conduct periodic reviews of all cases in which a child has been in custody for one year or has been removed from parental care and placed in foster care more than once. The specialists will also be available to consult and assist regarding any child's case where the caseworker or supervisor believes that a permanent plan other than return to the parents may be needed.

In those cases where the parents are not actively involved and progressing, a team decision will be made about whether continued effort with the parents is most appropriate or termination of parental rights should be pursued. In the former cases, further review will occur quarterly to be certain that no "drift" occurs.

In situations where termination of parental rights is identified as the most appropriate permanent plan, the permanency planning court specialist will be responsible for preparing the case for presentation to the court. The specialist will prepare chronologies of events, organize the evidence, interview and prepare witnesses, identify and prepare expert witnesses, and generally assist the ongoing caseworker and the assigned attorney.

Freeing a child for adoption requires the court to terminate the most precious relationship in our society -- that between parent and child. Preparation for these proceedings is extraordinarily demanding, time consuming, and stressful. By assigning specialists, we expect to eliminate delays which occur when ongoing workers are trying to balance this kind of preparation with their day-to-day obligations to respond to the needs of children, parents, and foster parents. The added expertise the specialists can bring to consultation about ongoing cases will also help less experienced workers improve their assessment and treatment skills.

Training regarding Permanency Planning --

In conjunction with the Department of Law, training and orientation for all new social workers will include information concerning legal standards for termination of parental rights, documenting events and services offered throughout a case, and assessing when termination of parental rights or another permanent plan should be pursued.

Updates on these subjects will be included in periodic training for all of the social workers. This will help keep skills current and offer an opportunity to incorporate the findings of the permanency planning court specialists about how best to prepare for court proceedings when they are required.

Specialists will be trained as a team. Their training will focus on legal and child welfare issues associated with permanency planning. This training will include information on how to conduct case reviews, assessment of treatment plans and progress, weighing permanent plan alternatives such as guardianship, adoption and long-term foster care, and preparing for complex legal proceedings.

Department of Law Participation --

In the Fairbanks, Anchorage, and Juneau offices of the Attorney General, arrangements will be made to make attorneys available to assist with training the DFYS specialists and to consult with the specialists and take cases to court. In the other offices, the Assistant Attorneys General assigned to represent DFYS will be offered support and consultation from the three larger offices, as needed.

In Juneau, a paralegal position, which is currently not filled, will be dedicated specifically to child in need of aid termination proceedings.

In Anchorage, the 1990 budget request includes the addition of an attorney and a paralegal to the human services section. Both of those positions will be dedicated to children's proceedings--including consultation with other attorneys handling termination cases. The attorney specialist will also be responsible for developing and implementing the monitoring and evaluation system for all child protection attorneys' cases in Anchorage.

Fairbanks attorneys will continue weekly staffings on all pending cases. The Fairbanks office has been involved in vigorously pursuing termination cases for quite a period of time. They will participate in concerted monitoring of cases, and evaluation of this new statewide effort.

HOW WILL WE KNOW IF WE ARE SUCCEEDING?

No later than August 15, 1990, a report will be jointly issued by the two Departments on the project's first year of operation.

In developing this project, DFYS gathered significant information about the status of permanency planning in Alaska. With the

Department of Law, we closely examined statutes concerning termination of parental rights and the many perceptions about permanency planning and "the best interests of a child." The information we have gathered is set out here as the starting place for the project evaluation, which will be described in the August 1990 report.

The annual report will include an analysis of the impact the project has had on achieving a permanent plan for the children presently in placement more than two years. It will address the project's impact on reducing the average length of time before a permanent plan is achieved for all children in out of home care. It will also include findings about what works and what doesn't and plans and recommendations for further action.

WHY SHOULD WE START THIS PROJECT?

... What is happening to children in the custody of the State of Alaska?

... Are plans for permanency being made in a timely manner?

... What is the Division of Family and Youth Services doing to prevent foster care drift?

... What is in the best interest for each child?

... Are permanent plans being finalized for children?

... What are the barriers to quality care for children in State custody?

For several hundred children, the answers to these questions are vital elements in their day-to-day survival and their future well-being. These are questions considered by policy-makers, legislators, judges, social workers, guardians, and DFYS. These are the questions that drove us to the conclusion that we needed more focused attention than had previously been devoted to permanency planning in Alaska.

Even after a child has been removed from his or her home, the child's immediate safety is not assured. Without continuing appropriate service for the child and the family, the child is at risk of victimization by the protection system. Immediate and long-term goals are necessary for each child who is removed from his or her home. The nationally recognized term for this type of planning is "permanency planning."

WHAT IS PERMANENCY PLANNING?

Permanency planning for children is a concept, a philosophy, and the desired outcome of DFYS intervention with a family. In practice, permanency planning begins with the first act of intervention by the agency. Each child's situation is assessed in two ways:

- 1) The risk of harm to the child in his own home is determined.
- 2) The family is assessed to identify needed changes so the family can provide safe, nurturing care for the child.

Through permanency planning, the goal of safe, stable care is achieved individually for each child:

1. When the child's family can be rehabilitated in a reasonable period of time, the permanency planning goal is to reunite the child with his family;
2. When the potential for reuniting a child with his family exists, an interim placement should be found which "could be permanent" if the attempt to reunite the child with his family is unsuccessful. Future planning in this direction reduces the number of placements the child must experience;
3. Sometimes adoption is best for the child and is possible when the child's parents' rights are terminated in court;
4. When the child's family cannot be rehabilitated and relatives can provide a safe, nurturing environment, a permanent relative placement may be the plan;
5. For Alaskan Native children, relatives and tribal members must be considered, and are usually most appropriate to provide the needed permanent placement;
6. Foster families frequently are willing to provide permanent care to a child who cannot be freed for adoption and has no relatives who can provide safe and permanent care;
7. Guardianship is also an avenue for permanency which does not require termination of parental rights. Relatives, tribal members and foster families can be named guardians.

WHERE ARE WE IN MEETING PERMANENCY PLANNING GOALS IN A TIMELY MANNER?

According to a recent analysis (data from December 1985 and the most recent analysis in January 1989), approximately 21% to 23% of the children in state care have been there for more than two years. In Washington, Maine, and Massachusetts the statistic is 30%, 51% and 31%, respectively. Alaska has a lower percentage rate. However, for the 222 children in Alaska who have been in substitute care for more than two years, timely permanency planning has not occurred, and for the 33 children who are between the ages of two and five, out of home care represents the majority of their life span. The following chart shows the region, age, and sex of these children.

<u>REGION</u>	<u>AGE AND SEX</u>						<u>TOTAL</u>
	<u>2-5 yrs.</u>		<u>6-10 yrs.</u>		<u>11-18 yrs.</u>		
	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	
Western	2	6	4	6	3	4	25
Northwestern					1		1
Northern	1		7	5	8	18	39
Southcentral	12	15	18	13	32	41	131
Southeastern		1	4	1	10	10	26
Totals	<u>15 22</u>		<u>33 25</u>		<u>54 73</u>		222
	37		58		127		

Alaska also appears to be doing a better job than some of the other states by not "losing" children for years in the system.

At the same time, the number of moves a child makes from foster home to foster home and from the child's home to a foster home is a measure of the quality of care the child is receiving from the "system". In 1985, 74% of the children in DFYS custody had been in at least two placements and 25% had over five placements.

In comparison, New Jersey reports that 45% of their children in substitute care have had only one placement. However, the other 55% represent multiple placements. Washington State's data for FY 86 indicated that of the 5,745 children placed, 3,858 (67%) received one placement each; 1,114 (20%) received two placements; 711, three to five placements; and 62 children had received more than six placements. The Division's program goals include reducing the number of placements for each child as well as reducing the length of time in placement for children.

HOW DO STATUTES AFFECT THIS PROCESS?

State and federal statutes define standards of proof for termination of parental rights: state statute mandates clear and convincing evidence that the parents' conduct is likely to continue. The Indian Child Welfare Act mandates evidence beyond a reasonable doubt that continued custody by the parents is likely to result in serious physical or emotional damage to the child and proof that active efforts have been made to offer remedial services. The statutes do not give time frames for the filing of a petition to terminate parental rights.

Both the parents' ability to change and to meet the child's needs are key elements. Although there are barriers to the timely planning for children in custody in Alaska, the statutes are rarely, if ever, the barrier. Ideal progression is dependent on the resources and skill of staff in the state agency, the community's resources for assisting the parents to learn to care for their child and to overcome the parents' problems, the skill and availability of the state's attorney, and the wisdom of the court.

Permanent status for some children can be achieved only through the termination of their parents' rights. State and federal statutes give the legal rules and structure to the courts and the state agency to use in deciding when the termination of parental rights can be granted:

AS 47.10.080 (c) (3) provides that by order, upon a showing in the adjudication by clear and convincing evidence that there is a child in need of aid under AS 47.10.010 (a) (2) as a result of parental conduct and upon a showing in the disposition by clear and convincing evidence that the parental conduct is likely to continue to exist if there is no termination of parental rights, terminate parental rights and responsibilities of one or both parents and commit the child to the department or to a legally appointed guardian of the person of the child, and the department or guardian shall report annually to

the court on efforts being made to find a permanent placement for the child.

The Indian Child Welfare Act (P.L. 95-608) provides in pertinent part that no termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) provides in pertinent part that effective October 1, 1983, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home; and it provides for the development of a case plan (as defined in section 475[1]) for each child receiving foster care maintenance payments under the State plan and provides for a case review system which meets the requirements described in section 475(5) (B) with respect to each such child.

The term 'case plan' means . . . a plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child . . . 475(5) The term 'case review system' means a procedure for assuring that . . . (B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review . . . in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship and

WHAT IS IN THE BEST INTERESTS OF A CHILD?

This question elicits emotional, philosophical, societal, tribal, and sometimes religious responses which are different for every child whose needs have not been met by the child's parents. The court ultimately may have to provide the answer for many children.

We believe it is in the best interest of every child to be loved and cared for by the child's own parents. Unfortunately, even with help to the parents, this is not always possible. The "reasonable efforts" requirement of the Adoption Assistance and Child Welfare Act of 1980 recognized, on a federal level, the bond which a child has with his family and the importance of maintaining that bond. The Indian Child Welfare Act has similar requirements. Both federal laws, like Alaska State law, recognize, however, that this goal may not be attainable for every child. When it is not, another permanent family must be found for the child.

FINALLY --

We will need lots of help to make this project work. We must have enough social workers and lawyers. Treatment providers must recognize the urgency. Tribal advocates and Native organizations must be included so we have the best possible support for parents of Native children and help finding and supporting the most appropriate substitute placements, when that is required. Guardians ad litem must advocate vigorously.

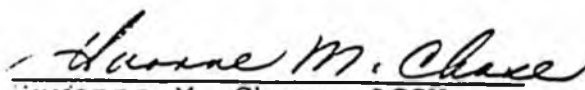
Meeting the goal of a permanent home for every child requires difficult decisions and painful choices. Most important, we need the commitment of every Alaskan to meeting this goal.

Permanency for Dependent Children
March 1989

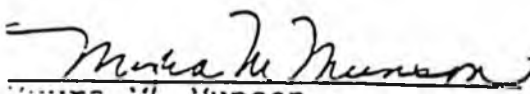
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For more information, please contact:

Yvonne M. Chase, ACSW
Director
Division of Family and Youth Services
P.O. Box H-05
Juneau, Alaska 99811-0630
(907) 465-3170


Yvonne M. Chase, ACSW
Director
Division of Family
and Youth Services

Date: 3/8/89


Maura M. Munson
Commissioner
Department of Health and
Social Services

Date: 3/8/89

MEMORANDUM

State of Alaska

TO: The Honorable Max Gruenberg
Alaska State House

DATE: March 14, 1989

FILE NO. HB & 790

TELEPHONE NO. 465-2105

THRU: Yvonne M. Chase *YMC*
Director
Division of Family and Youth Services

SUBJECT: Mental Injury

FROM: Frank Barthelet *FB*
SS Program Coordinator
Division of Family and Youth Services

The following information is being provided on mental injury in response to your request. I would be happy to provide further clarification on why the issues described be laws.

AS 47.10.010(a)(2)(B) provides jurisdiction in situations in which a child exhibits the effects of mental injury. However, the child abuse and neglect reporting statute does not include mental injury as a condition that must be reported. Many cases initially identified as psychological maltreatment, but not reported, later enter the system as physical abuse, sexual abuse, or neglect. Early intervention is preferable to later intervention, as it is more likely to succeed and is generally less costly to the State.

An amendment to the present law would expand AS 47.17.072(2)'s definition of "child abuse and neglect" to include "mental injury" and would bring Alaska statutes into compliance with the Federal Child Abuse and Prevention Act 42 V.S.C Sec. 5101 et seq.

Compliance will make the State eligible to continue to receive Federal money for child abuse and neglect programs. States are eligible, based on their compliance, to receive funding from the federal government. That amount is based on a formula involving population. In addition to the amount which is automatic if a State is in compliance, other discretionary funds are available which require compliance with federal law to be "eligible" to even apply. This is the fourth and last year that Alaska will be eligible for a waiver. If Alaska loses federal eligibility, DFYS will lose approximately \$100,000 (59,000 in a Basic Grant and another \$40,000-\$50,000 from the Children's Justice Act).

Initially, there was concern that when States included this additional language in their child protection statutes, their caseloads would dramatically rise. In the annual Title IV-B compliance review of the Division's records by the federal government, it appeared that Alaska was already seeing the majority of these cases, and that an increase in caseloads would be minimum. (arguments to that effect, however, have not been accepted by the federal government because they require the words "mental injury" in the State's reporting statute). Based on present estimates, the increase in reporting would only be approximately 1%.

March 14, 1989

The Department will submit a zero fiscal note if a mental injury bill is introduced. Although it is recognized that passage of the bill will result in some increased workload, the long term advantages outweigh that consideration. Early intervention would reduce treatment costs from children who might not then enter our system when they suffered more damages, and the continued eligibility for the federally funded Basic Grant in addition to discretionary grants available will result in a positive fiscal impact over time.

FB:rkh

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

PO. BOX H
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030

October 19, 1989

REC'D OCT 30 1989

Representative Max F. Gruenberg
3111 C Street, Suite 440
Anchorage, AK 99503

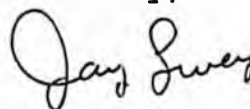
Dear Representative Gruenberg:

I have enclosed recent correspondence received by the Department regarding Alaska's application for NCCAN funds. The correspondence confirms that Alaska's application for a NCCAN grant during federal fiscal year 90 was not funded because "mental injury" is not part of Alaska's child abuse statute.

As you know, the Governor's Office is currently working with our Congressional delegation to secure a waiver for the "mental injury" requirement for Alaska. At this point we do not know if such a waiver, or for that matter the early passage of HB 175, would help us to obtain any funds for the current federal fiscal year. We are working on this but as yet have not worked out a reasonable scenario as to how this might occur.

I hope we all agree that the best and permanent fix for this problem is the passage of HB 175 and that we all continue to work toward that end. If any more information regarding this issue would be helpful to you, please let me know. Thank you for your efforts on behalf of HB 175.

Sincerely,



Jay Livey, Special Assistant,
Legislation
Department of Health & Social
Services

Enclosure

cc: Representative Johnny Ellis

May 5, 1989

1695


HB 175

The Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 175 (Judiciary) (An Act relating to the construction of laws pertaining to adoption; modifying policy statements relating to strengthening a child's family ties or family life; relating to review of orders in certain children's proceedings; and modifying the definition of 'child abuse or neglect') and a majority of the committee recommended do pass. The report was signed by Senator Fischer, Chair, and concurred in by Senators Jones and Kelly. Senator Adams signed "no recommendation."

Previous House zero fiscal note.

CS FOR HOUSE BILL NO. 175 (Judiciary) was referred to the Judiciary Committee.

HB 233

The Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 233 (HESS) am (An Act increasing the limit on the local contribution to a city or borough school district to 23 percent; imposing a required local contribution within a city or borough school district formed after July 1, 1988; and providing for an effective date). Senator Fischer, Chair, and Senator Jones signed "do pass." Senator Adams signed "no recommendation." Senator Kelly signed "do not pass unless amended."

Fiscal note published today from Department of Education.

CS FOR HOUSE BILL NO. 233 (HESS) am was referred to the Rules Committee.

INTRODUCTION AND REFERENCE OF SENATE RESOLUTIONS

SJR 50

SENATE JOINT RESOLUTION NO. 50 by Senator Zharoff,

Relating to the rule proposed by the United States Fish and Wildlife Service relating to marine mammals.

was read the first time and referred to the Resources Committee.

HB 175

HOUSE BILL NO. 175

"An Act relating to programs and proceedings concerning children; and emphasizing that the best interests of the child must be considered under certain programs and during certain proceedings involving children."

and recommends it be replaced with the following committee substitute:

CS FOR HOUSE BILL NO. 175 (HESS)

"An Act relating to the construction of laws pertaining to adoption; modifying policy statements relating to removal of a child from the custody of the child's parents and from the child's home; requiring the court to make certain findings and conclusions of law related to children who are delinquent or in need of aid; modifying the definition of 'child abuse or neglect'; and emphasizing that the best interests of the child must be considered under certain programs and during certain proceedings involving children."

Recommending do pass (5): Ellis (Chairman), Goll, Boyer, Jacko, Gruenberg

No recommendation (2): Furnace, C. Davis

A letter of intent, signed by Ellis (Chairman), appears below:

House Health, Education & Social Services Committee
Letter of Intent
for
CSHB 175(HESS)

"It is the intent of the House HESS Committee to endorse the Division of Family and Youth Services' 'Permanency for Dependent Children' project as a means of expediting the planning and placement of children in state custody in permanent and safe homes. The Division is requested to report to the Committee on the progress of this project by October 15, 1989."

A zero fiscal note with analysis by the Department of Health & Social Services was published April 7, 1989.

HB 175 was referred to the Judiciary Committee.

HB 185

The Health, Education & Social Services Committee has considered:

LETTER OF INTENT

Draft -
for Johnny E.

TALKING POINTS ON HB 175
by the
HOUSE HESS COMMITTEE

* House Bill 175, which was introduced by the House HESS Committee, make changes to certain laws regarding children.

* It is one of a package of measures proposed or supported by the House HESS Committee, as a result of the Committee's comprehensive interim review of the state's child protection and foster care systems.

* The primary purpose of the bill is to insure that the best interest of the children are the paramount concern in state proceedings regarding the custody of children.

* HB 175 responds to concerns that the Division of Family and Youth Services and the court may not be given clear direction when deciding between the values of preserving family ties and the safety and welfare of children. The bill seeks to clarify that efforts to preserve and strengthen family ties are to be pursued unless such efforts are likely to result in physical or emotional damage to a child.

* HB 175 also responds to concerns that abused and neglected children often linger unnecessarily long in foster care. The intent is to document the reason for the child's removal from the home, and to promote parental participation in services leading to a beneficial reunification. The ultimate goal is to expedite the placement of children in a secure and permanent home so they can quickly reestablish family bonds which are so critical to their emotional well-being.

* The Co-Chair of the Judiciary Committee will further elaborate on the provisions of this legislation.

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

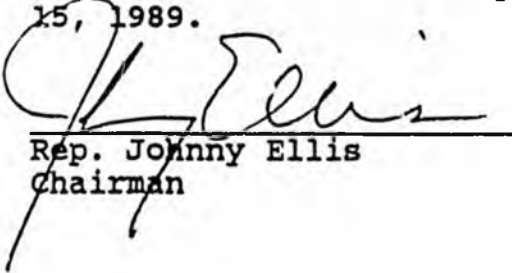
ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES



P.O. BOX V, JUNEAU 99811
(907) 465-3759

HOUSE HESS COMMITTEE
LETTER OF INTENT TO CSHB 175 (HESS)

It is the intent of the House HESS Committee to endorse the Division of Family and Youth Services' "Permanency for Dependent Children" project as a means of expediting the planning and placement of children in state custody in permanent and safe homes. The Division is requested to report to the Committee on the progress of this project by October 15, 1989.


Rep. Johnny Ellis
Chairman

April 6, 1989
Date of Adoption