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396

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB356

Revision Date: _____ Dept. Affected Health and Social Services
 Title: Medical costs...children in custody BRU: DFYS - Purchased Services
 Component: Foster Care
 Sponsor: Senator Collins
 Requestor: Governor COMPONENT SERIAL NO. 0252

Expenditures/Revenues	(Thousands of Dollars)					
	FY93	FY94	FY95	FY96	FY97	FY98
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING:	(Thousands of Dollars)					
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

This bill is critical to the Division of Family and Youth Services. There will be no increased costs incurred if this bill passes, but there is a serious potential for a sizeable increase in foster care costs if it does not pass.

Prepared by: Brian Saylor, Deputy Commissioner *Brian Saylor* Phone: 465-3030
 Division: Family and Youth Services Date: February 25, 1992
 Approved by Commissioner: *[Signature]* Date: 3/3/92
 Agency: Department of Health and Social Services

Distribution (by preparer):
 Legislative Finance OMB
 Legislative Sponsor Impacted Agency(ies)
 Requestor

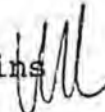
Alaska State Legislature

During Session
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Senator Virginia Collins

To: Senator Arliss Sturgulewski, Chair
Senate Health, Education, and Social
Services Committee

From: Senator Virginia Collins 

Re: Request for hearing of SB 396 (clarifying parental
responsibilities for a child in state custody)

Date: February 25, 1992

Please schedule SB 396 for a hearing before your committee.

SB 396 clarifies the responsibilities of the Department of Health and Social Services and parents for children who are committed to the custody of the department and are placed by the department with the parents.

In the August 1991 decision in the case of In re E.A.O., the Alaska Supreme Court ruled that the department must pay for the medical costs of children in state custody even though the children live with their parents.

The ramifications of this decision are enormous. The state will be responsible for substantial expenses in medical care, and, it may be held liable for other costs of child rearing such as food, shelter, and education.

SB 396 requires parents to protect, train, and discipline children in state custody who are placed at home. It also requires parents to provide them with food, shelter, education, and medical care.

SB 396 will free the state from the fiscal complications emerging from the August 1991 court decision.

Thank you for your consideration of this request.

Alaska State Legislature

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Senator Virginia Collins

SB 396

Clarifying parental responsibilities for a child in state custody

SB 396 clarifies the responsibilities of the Department of Health and Social Services and parents for children who are committed to the custody of the department and are placed by the department with the parents.

The bill responds to a recent Alaska Supreme Court decision that will incur new and substantial costs to the state.

In the August 1991 decision in the case of In re E.A.O., the court reversed a lower court decision and ruled that the state must pay for the medical costs of a child in state custody even though the child lives with his or her parents.

Prior to this decision, the state interpreted the law to pay for medical care costs of children in physical custody of the state. Holding the state responsible for medical costs of children in its custody who are placed at home would result in less protection for these children and other children in need of aid.

The ramifications of this decision may also lead to the state's being held liable for other costs of child rearing such as food, shelter, and education.

In an era of projected declining revenues, SB 396 responds to these costly implications.



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Senator Virginia Collins

SB 396

Clarifying parental responsibilities
for a child in state custody

Section by section analysis

Section 1 -- Clarifies rights and duties of a parent when a child is committed to state custody and placed by the state with the child's parent.

Section 2 -- Makes Act retroactive to August 30, 1991.

Section 3 -- Makes Act effective immediately.

SENATE BILL NO. 396

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR COLLINS

Introduced: 2/12/92
Referred: HES, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act clarifying the responsibilities of the Department of Health and Social Services and
2 parents for children who are committed to the custody of the department and are placed
3 by the department with the parents; and providing for an effective date."

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

5 * Section 1. AS 47.10.084(a) is amended to read:

6 (a) When a child is committed under AS 47.10.080(b)(1) or (c)(1) to the department or
7 released under AS 47.10.080(b)(2) or (3) or (c)(2) to the child's parents, guardian, or other
8 suitable person, a relationship of legal custody exists. This relationship imposes on the
9 department and its authorized agents or the parents, guardian, or other suitable person the
10 responsibility of physical care and control of the child, the determination of where and with
11 whom the child shall live, the right and duty to protect, train, and discipline the child, and the
12 duty of providing the child with food, shelter, education, and medical care. These obligations are
13 subject to any residual parental rights and responsibilities and rights and responsibilities of a
14 guardian if one has been appointed. When a child is committed to the department and the

Other suggestion

1 department places the child with the child's parent. ~~the parent has the right and duty to~~
2 ~~protect, train, and discipline the child and the duty to provide and pay for food, shelter,~~
3 education, and medical care for the child. When parental rights have been terminated, or there
4 are no living parents and no guardian has been appointed, the responsibilities of legal custody
5 include those in (b) and (c) of this section. The department or person having legal custody of
6 the child may delegate any of the responsibilities under this section, except authority to consent
7 to marriage, adoption, and military enlistment may not be delegated. For purposes of this chapter
8 a person in charge of a placement setting is an agent of the department.

9 * Sec. 2. Section 1 of this Act is retroactive to August 30, 1991.

10 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

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Handwritten notes:
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SENATE BILL 396

"An Act clarifying the responsibilities of the Department of Health and Social Services and parents for children who are committed to the custody of the department and are placed by the department with the parents; and providing for an effective date."

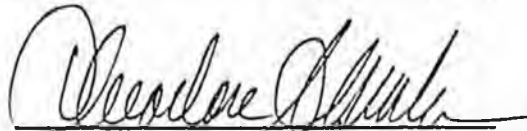
The Department of Health and Social Services strongly supports SB396, which clarifies the responsibilities of the Department for children committed to its legal custody who continue to reside with the parent or parents. The Bill amends AS 47.10.084(a) to expressly require a parent or parents to provide for the day to day care of their children if the children are residing with them when the state has legal custody as a result of child protective services purposes.

This bill was made necessary as a result of the Alaska Supreme Court ruling in the case of In re E.A.O., 816 P.2d 1352 (Alaska 1991), in which the court ruled that the current AS 47.10.084 requires the department to pay for medical costs associated with the care of children, even though they live with their parents. The department has never interpreted the statute in this manner in the past. Therefore, absent an amendment, the department will incur substantial additional financial expenses for these medical costs and may also be exposed to legal suits to resolve the responsibility for other costs of child rearing, including food, shelter, and education, while a child is placed at home by the department. The department has not budgeted for these type of costs, and these costs would significantly impact our budget, as well as the Medicaid budget. Although the court did acknowledge a possible right of reimbursement from the parents, the collection would not be practical nor cost-effective.

The bill provides for a retroactive effective date to August 30, 1991, the date that the court issued its ruling. A retroactive effective date is necessary to avoid the additional unbudgeted expenses and to resolve a legal question as to the department's responsibilities for other expenses, such as shelter, which the court did not direct address in its decision.

The Department of Health and Social Services urges the passage of this bill.


Deputy Commissioner
Health and Social Services


Commissioner
Health and Social Services

Date: 3/3/92

Date: 3 March 1992