

**HB**

**375**

**HFIN**

**FILE**

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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Juneau, Alaska 99801-2105

## MEMORANDUM

May 6, 1998

**SUBJECT:** Child Protection (CSHB 375(FIN))

**TO:** Representative Gene Therriault, Co-Chair  
Representative Mark Hanley, Co-Chair  
Attn: Shar Smith

**FROM:** Terri Lauterbach   
Legislative Counsel

Enclosed is CSHB 375(FIN).

In addition to the internal section renumbering and bill title changes made necessary by the committee's amendments, I also made the following unsolicited changes in the CS:

- (1) In sec. 1(b)(1), I deleted a reference to the "findings in this section" because there are no findings in sec. 1. (There were some a few versions ago.)
- (2) In sec. 79 (court rule change), I added a reference to AS 47.10.090(e) (sec. 35).
- (3) I deleted references to AS 11.41.458 that were in secs. 11 and 12 because the section that would have enacted AS 11.41.458 (child endangerment) was removed from the CS by the Finance Committee.

Please let me know if you require additional changes or if I can be of other assistance.

TML:jdr:pl  
98-286.jdr

Enclosure

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 27, 1998

FURTHER REFERRALS:

Date of Committee Action: 5/5/98

The FINANCE Committee considered:

HB 375

**HOUSE BILL NO. 375**

**CRIMES AGAINST CHILDREN/FOSTER CARE**

"An Act relating to children in need of aid matters and proceedings; relating to murder of children, criminally negligent homicide, kidnapping, criminal nonsupport, the crime of indecent exposure, and the crime of endangering the welfare of a child; relating to registration of certain sex offenders; relating to sentencing for certain crimes involving child victims; relating to the state medical examiner and reviews of child fatalities; relating to teacher certification and convictions of crimes involving child victims; relating to access, confidentiality, and release of certain information concerning the care of children, child abuse and neglect, and child fatalities; authorizing the Department of Health and Social Services to enter into an interstate compact concerning adoption and medical assistance for certain children with special needs; authorizing the establishment of a multidisciplinary child protection team to review reports of child abuse or neglect; relating to immunity from liability for certain state actions concerning matters involving child protection and fatality reviews and children in need of aid; relating to persons required to report suspected child abuse or neglect; relating to foster care placement and to payment for children in foster and other care and the waiver of certain foster care requirements; relating to the access to certain criminal justice information and licensure of certain child care facilities; amending Rule 218, Alaska Rules of Appellate Procedure; amending Rules 1, 3, 15, 18, and 19, Alaska Child in Need of Aid Rules; and providing for an effective date."

**recommends it be replaced**  the same title  
**with the following committee substitute** CSHB 375 (FIN)  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S):

(Dept)

APPROVES PREVIOUS:

(Dept/Date)

fiscal note(s)

(4) fiscal note(s)

DHS 4/7/98

DOC 4/7/98

OMB 2/2/98

AK Ct. Sys

zero fiscal note(s)

zero fiscal note(s)

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Ed Mulder</u> Mulder			X	
<u>Eric Kohring</u> Kohring		X		
<u>John Davies</u> (Davies)	X			
<u>Ben Grussendorf</u> Grussendorf	X			
<u>Chris Moses</u> Moses			X	
<u>John Davis</u> DAVIS			X	
<u>Pete Kelly</u> Kelly			X	

CO-CHAIR'S SIGNATURE

vice-chair

Ed Mulder  
Mulder

# FISCAL NOTE

## STATE OF ALASKA 1998 LEGISLATIVE SESSION

**BILL NO. HB 375**

Revision Date:

Dept. Affected: Alaska Court SystemTitle: An Act relating to children in need of  
aid matters & proceedingsBRU: Trial CourtsSponsor: Rules Committee

Component: \_\_\_\_\_

Requestor: GovernorCOMPONENT SERIAL NO. 788

## Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	141.2	141.2	141.2	97.6	97.6	97.6
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL						
SUPPLIES	5.0	5.0	5.0	5.0	5.0	5.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>151.2</b>	<b>151.2</b>	<b>151.2</b>	<b>107.6</b>	<b>107.6</b>	<b>107.6</b>

## CAPITAL EXPENDITURES

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## CHANGE IN REVENUES ( )

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## Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	151.2	151.2	151.2	107.6	107.6	107.6
1008 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>151.2</b>	<b>151.2</b>	<b>151.2</b>	<b>107.6</b>	<b>107.6</b>	<b>107.6</b>

Estimate of any current year (FY 98) cost: \$ None

## Positions

Full-Time	3	3	3	3	3	3
Part-Time	2	2	2			
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, General CounselAgency: Alaska Court SystemPhone: 264-8228Date: 03/19/98Approved by: Stephanie J. Cole, Administrative DirectorAgency: Alaska Court SystemDate: 03/19/98

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1021 AM

Rev 1/98

Page 1 of 3

**Alaska Court System****Fiscal Analysis****HB 375****FUNDING OVERVIEW**

This fiscal note reflects only the costs of implementing this legislation. This legislation forms a part of a multifaceted effort by the Executive Branch to improve the child protection legal system. The court system recognizes the anticipated impact in three separate but related funding requests. The court's FY 99 operating budget request includes an increment for \$386,500 which reflects the impact on the judicial system of the Governor's Smart Start children's initiative. This proposed increment was based on the Department of Law's budget request for 8 additional child protection attorneys. In a related supplemental budget request, the court system is seeking \$84,000 for judicial staff, courtroom support staff and travel funds to deal with the new emphasis on processing adoptions of children in foster care. Finally, the court is requesting \$151,200 via this fiscal note for the impact of this legislation. Please note that the supplemental budget request duplicates portions of the FY 99 operating budget request and the fiscal note. The schedule below summarizes our funding requests.

	<u>Funding Requested in</u>		
	<u>Operating Budget</u>	<u>Fiscal Note</u>	<u>FY 98 Supplemental*</u> <i>(Duplicates funding in operating &amp; budget &amp; FN request)</i>
<b>Personal Services</b>			
Pro Tem Superior Court Judge, Anchorage, PPT, 12 months	\$ 87,000		\$ 54,300
Family Court Master, Anchorage, 24A, PFT, 12 months	84,700		
Family Court Master, Fairbanks, 24A, PFT, 12 months	98,000		
In-Court Clerk, Anchorage, 12A, PFT, 12 months <i>(support to judge &amp; master)</i>	40,600		24,700
In-Court Clerk, Anchorage, 12A, PFT, 12 months <i>(support to judge &amp; master)</i>	20,300	20,300	
In-Court Clerk, Fairbanks, 12A, PFT, 12 months <i>(support to judge &amp; master)</i>	45,400		
Pro Tem Superior Court Judge, Fairbanks, PPT, 4 months		27,000	
Pro Tem Superior Court Judge, Juneau, PPT, 2.5 months		18,700	
Court Clerk II, Anchorage, 10A, PFT, 12 months		38,600	
Court Clerk II, Fairbanks, 10A, PFT, 12 months		40,600	
<b>Total Personal Services</b>	<b>374,000</b>	<b>141,200</b>	<b>79,000</b>
Travel		5,000	5,000
Supplies		5,000	
Equipment	12,800		
	<b>\$ 386,500</b>	<b>\$ 151,200</b>	<b>\$ 84,000</b>

\* The FY 98 Supplemental budget request covers a 1.5-month period: 3 months in FY 98 and 12 months in FY 99.

**FISCAL NOTE****Incremental costs of HB 375 only**

The court's fiscal note is based on information from the Department of Law and the Division of Family and Youth Services. According to this information, the courts are experiencing a dramatic increase in child in need of aid (CINA) cases and can expect additional work as a backlog of cases for children in foster care is processed. This workload will severely impact both the judicial and clerical resources of the court. It is anticipated that the increase in CINA cases will have a long-term impact while the impact from processing the backlog of cases is expected to end after three fiscal years. The

Alaska Court SystemFiscal AnalysisHB 375

court plans to use pro tem superior court judges to handle the judicial workload. Permanent judges would actually be assigned to the CINA cases and the pro tem judges would assume their existing non-CINA workloads. The Department of Law estimates that there is a backlog of 450 cases, which require a petition for termination of parental rights. The court has assumed that 75% of these petitions will result in a trial. Each trial is estimated to last 2 1/2 days. The judicial staffing assumes that 1/3 of the backlogged cases will be processed in each of the next 3 fiscal years. A small amount of time has been added to the estimated judicial time to accommodate travel to courts outside the assigned location.

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Superior Court Judge, Fairbanks, PPT, 4 months (FY 99 - FY 01 only)	19,378	7,650	27,029
Pro Tem Superior Court Judge, Juneau, PPT, 2.5 months (FY 99 - FY 01 only)	11,944	4,715	16,659
In-Court Clerk, Anchorage, 12A, PFT, 12 months (support to judge & master)	14,468	5,845	20,311
Court Clerk II, Anchorage, 10A, PFT, 12 months	25,644	10,978	36,622
Court Clerk II, Fairbanks, 10A, PFT, 12 months	28,932	11,691	40,623
			<hr/>
	Total Personal Services		141,244
 <u>Travel</u>			
Travel to other courts to process caseload			5,000
 <u>Supplies</u>			
Case processing supplies and supplies for new positions			5,000
			<hr/>
	Estimated total cost		\$ 151,244
			<hr/>

**FISCAL NOTE**

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

No: 4

Bill Version: SHB 375 (HES)  
(H) Publish Date: 4/7/98

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Child Protection BRU: State Health Services  
 Sponsor: Rules Committee Component: State Medical Examiner  
 Requestor: Governor COMPONENT SERIAL NO. 293  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES		35.0	35.9	36.8	37.7	38.6
TRAVEL		3.0	3.0	3.0	3.0	3.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT		5.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>43.0</b>	<b>38.9</b>	<b>39.8</b>	<b>40.7</b>	<b>41.6</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGES IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1032 Federal Receipts						
1003 GF Match						
1004 GF		43.0	38.9	39.8	40.7	41.6
1005 GF/Program Receipts						
1037 GF/Merital Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>43.0</b>	<b>38.9</b>	<b>39.8</b>	<b>40.7</b>	<b>41.6</b>

**POSITIONS:**

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

**ANALYSIS:** (Attach a separate page if necessary)

The State Medical Examiner will be able to absorb the cost associated with a full-time clerk as the State Child Fatality Review is being established. By FY00, a full-time Administrative Clerk II will be needed to collect, collate and distribute the data, make travel arrangements and arrange for physical space for the review teams meetings, and advise attendees as to the material being discussed. The Division of Public Health will absorb the cost of the expertise needed to perform the analytical portion of the program within its existing resources.

\$3.0 is being requested in Line 200 Travel for members of the review team to attend the meetings. Also included in the travel line is funding to travel to other communities to train and support local community review boards.

\$5.0 is requested in FY 00 in Line 500 Equipment for office furniture and a computer for the Administrative Clerk II.

Prepared by: Peter M. Sakamura, MD, MPH Phone: (907) 465-3090  
 Division: Public Health Date: 03/12/98  
 Approved by Commissioner: Karen Perdue, Commissioner Date: 3/12/98  
 Agency: Department of Health & Social Services

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# FISCAL NOTE

No: 2

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

Bill .sion: CSHB 375 (HES)  
(H) Publish Date: 4/7/98

Revision Date (Note if correction) _____	Dept. Affected	Corrections
Title <u>An Act relating to children in need of aid matters</u>	BRU	Administration and Operations
and proceedings: <u>relating to murder of children.</u>	Component	ALL
Sponsor <u>Rules Committee</u>		
Requester <u>Governor</u>	Component Serial No.	<u>#0694</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	0.0	58.1	58.1	106.9	203.9	240.4
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>58.1</b>	<b>58.1</b>	<b>106.9</b>	<b>203.9</b>	<b>240.4</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	58.1	58.1	106.9	203.9	240.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>58.1</b>	<b>58.1</b>	<b>106.9</b>	<b>203.9</b>	<b>240.4</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

This legislation amends several titles under Alaska statutes. This fiscal note only reflects the sections of the bill that incur costs for the Department of Corrections.

Section 4. The Department of Law (DOL) estimates the changes made to AS 11.41.110(a) will increase the minimum sentence from five (5) years to fifteen (15) years for a net gain of ten (10) years. Subtracting one third for good time, the actual increase in sentence is 6.7 years. The DOL estimates this change will effect one (1) case per year, the additional cost for incarcerations will be \$243,670. (continued)

Prepared by Bruce Richards  
 Division Commissioner's Office  
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh*  
 Agency Department of Corrections

Phone 465-3307  
 Date 3/11/98  
 Date 3/11/98

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Section 5. Increases the penalty for criminally negligent homicide from a class C felony to a class B felony. This will result in an additional sentence of one and a half (1.5) years. Subtracting one third for good time results in a total increase in sentence of one (1) year. The DOL estimates this change will effect one (1) case per year, the additional cost for incarceration for one year will be \$36,525

Sections 8 & 9. This section will increase the penalty for one form of indecent exposure from a misdemeanor to a class C felony. The DOL estimates that three people would be convicted annually under the felony provision. This is expected to increase the current average sentence of 28 days to 90 days for a net gain of 62 days. Subtracting one third for good time, the actual increase is 32 days. The additional cost of incarceration for the three cases will be \$9,600.

Section 10. The DOL estimates the changes made in this section will affect one case per year. Under current statute the sentence would have been 6 months. With the changes that sentence will increase one year for a net gain of 182 days incarceration. Subtracting one third for good time, the actual increase is 120 days, the additional cost of incarceration for one case will be \$12,009.

Section 13. The DOL estimates the changes made in this section will affect one case per year. Under current statute the offender would be sentenced to a five (5) year presumptive sentence. This proposed change will result in a seven (7) year presumptive sentence for a net gain of two (2) years. Subtracting one third for good time, the actual increase in sentence will be 482 days. The additional cost of incarceration for one case will be \$48,214.

Section 24. This section would require the Department of Corrections to register sex offenders 30 days prior to their release from incarceration. The DOC began doing this in September of 1997 and therefore does not anticipate an increase in costs.

# FISCAL NOTE

Bill Version: HB 375

(H) Publish Date: 2/2/98

**STATE OF ALASKA  
1998 LEGISLATIVE SESSION**

Revision Date (Note if correction) Original Dept. Affect Multiple (see analysis)  
 Title "An Act relating to children in need of aid BRU  
matter and proceedings; relating to murder of children ...." Component \_\_\_\_\_  
 Sponsor Rules Committee  
 Requester Governor Component Serial No. \_\_\_\_\_

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>*****</b>	<b>*****</b>	<b>*****</b>	<b>*****</b>	<b>*****</b>	<b>*****</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>*****</b>	<b>*****</b>	<b>*****</b>	<b>*****</b>	<b>*****</b>	<b>*****</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The costs of implementing a zero tolerance policy for reports of harm to children by investigating all such reports are part of the comprehensive \$14 million child protection element of the Governor's Smart Start Initiative included in the FY 99 budget. The Executive Branch agencies with significant budgetary issues related to the criminal and civil provisions set out in this bill are the Departments of Administration, Corrections, Health and Social Services, and Law. If the FY 99 Smart Start increments for those agencies are not funded, this bill cannot be fully implemented.

Continued on next page ...

Prepared by Laura Baker, Budget Analyst  
 Division Office of Management and Budget  
 Approved by Annalee McConnell, Director *for David R. Spensy*  
 Agency Office of Management and Budget

Phone 465-4684  
 Date 1/30/98  
 Date 1/30/98

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**Analysis Continued:** "(An Act relating to children in need of aid...")

The interrelationships of the agencies' efforts are complex. The bill had not been finalized at the time the FY 99 budget was submitted, so some adjustments may be necessary to the child protection elements of Smart Start. If so, they will be presented as Governor's budget amendments within the overall amount already budgeted for Smart Start.

*Agencies and programs involved:*

Department of Administration

Office of Public Advocacy - The appointment of a guardian ad litem is legally required upon the filing of a child in need of aid (CINA) petition. These guardians ad litem must, following their appointment by the court, represent the best interests of the child throughout the CINA proceedings. An increase in cases will result from additional investigations expected to be undertaken by the Division of Family and Youth Services.

Public Defender - As a result of changes in policies of the Division of Family and Youth Services, the number of CINA cases is expected to significantly increase case activity. Parents have a right under Alaska law to representation by court-appointed counsel in CINA cases and criminal cases if they cannot afford their own attorney.

Department of Corrections

This legislation would expand penalties relating to certain crimes against children. These changes are expected to increase the number of incarcerations and the length of time served.

Department of Health and Social Services

This bill affects a broad range of departmental programs, including substance abuse treatment and family support services; social services for children in need; and temporary foster care or permanent adoption homes.

Additional adoption placements resulting from these changes in the law are separate from the placement backlog.

Department of Law

Criminal Division - Enactment of this legislation will add new criminal provisions as well as increase the penalties for those people who kill or harm children by abuse and neglect. The bill would make it easier to charge individuals who harm children with more serious offenses, and increase the sentences they may receive.

Civil Division - Changes in this bill include tightening definitions to clarify when a child is in need of aid and when state intervention is justified. A significant change involves time limits, the setting of deadlines, and a more concrete definition of parental responsibilities. Cases will proceed to a termination trial much faster to ensure that when reunification with family is not in the child's best interest, the child can be made legally eligible for placement in a permanent home more quickly.

Court System

The Alaska Court System is anticipated to submit a separate fiscal note regarding impacts of the bill.

adopted 5/2/98

5/2/98 am

NO/BJ

A

AMENDMENT I

OFFERED IN THE HOUSE

BY: Kelly

TO: CSHB 375(JUD)

1 Page 2, line 6:

2 Delete "the"

3 Insert "Rules 3, 7, 10, 15, 18, 19, and 22,"

4 Page 61, following line 20:

5 Insert new bill sections to read:

6 **\*\* Sec. 80. COURT RULE CHANGE.** (a) AS 47.10.030(b) and 47 10.070(a), as amended by  
7 secs. 35 and 37 of this Act, have the effect of amending Rules 3, 7, 10, 15, and 19, Alaska Child in  
8 Need of Aid Rules, by requiring foster parents and other specified persons to have notice and  
9 allowing them an opportunity to be heard in child-in-need-of-aid proceedings.

10 (b) Sections 35 and 37 of this Act take effect only if this section receives the two-thirds  
11 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

12 **\* Sec. 81. COURT RULE CHANGE.** (a) AS 47.10.080(a), as amended in sec. 38 of this Act,  
13 has the effect of amending Rule 15, Alaska Child in Need of Aid Rules, by establishing a timeframe  
14 for an adjudication hearing under AS 47.10.

15 (b) Section 38 of this Act takes effect only if this section receives the two-thirds majority  
16 vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

17 **\* Sec. 82. COURT RULE CHANGE.** (a) AS 47.10.080(c)(3), as amended by sec. 39 of this Act,

1 has the effect of amending

2 (1) Rule 18(c), Alaska Child in Need of Aid Rules, by changing the burden of proof  
3 for termination of parental rights; and

4 (2) Rule 18(e), Alaska Child in Need of Aid Rules, by requiring the Department of  
5 Health and Social Services to report quarterly, instead of annually, on its efforts to find a permanent  
6 placement for a child.

7 (b) The amendments made to AS 47.10.080(c)(3) by sec. 39 of this Act that change the  
8 burden of proof for termination of parental rights and require quarterly reports take effect only if this  
9 section receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution  
10 of the State of Alaska.

11 \* **Sec. 83. COURT RULE CHANGE.** (a) To the extent that AS 47.10.080(c)(1) and (2) are  
12 amended by sec. 39 of this Act to allow a child's guardian ad litem to petition for an extension of the  
13 child's commitment or supervision, those provisions amend Rule 10(e), Alaska Child in Need of Aid  
14 Rules, relating to petitions for extensions of commitment or supervision of a child.

15 (b) The amendments described in (a) of this section take effect only if this section receives  
16 the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of  
17 Alaska."

18 Renumber the following bill sections accordingly.

19 Page 61, line 27, through page 62, line 2:

20 Delete all material.

1           Insert new bill sections to read:

2           **\*\* Sec. 85. COURT RULE CHANGE.** (a) AS 47.10.080(f), as amended by sec. 40 of this Act,  
3           and AS 47.10.080(l), as amended by sec. 42 of this Act, have the effect of amending Rule 19, Alaska  
4           Child in Need of Aid Rules, regarding reviews and hearings by the court in child-in-need-of-aid  
5           proceedings.

6           (b) Sections 40 and 42 of this Act take effect only if this section receives the two-thirds  
7           majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

8           **\* Sec. 86. COURT RULE CHANGE.** (a) AS 47.10.086, enacted in sec. 47 of this Act, has the  
9           effect of amending

10                   (1) Rule 15, Alaska Child in Need of Aid Rules, regarding timing of hearings; and

11                   (2) Rule 15(g), Alaska Child in Need of Aid Rules, regarding the standards for  
12           reasonable efforts to be made in child-in-need-of-aid proceedings.

13           (b) AS 47.10.086, enacted in sec. 47 of this Act, takes effect only if this section receives the  
14           two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of  
15           Alaska.

16           **\* Sec. 87. COURT RULE CHANGE.** (a) AS 47.10.088(j) and (k), enacted in sec. 47 of this Act,  
17           have the effect of changing Rule 18, Alaska Child in Need of Aid Rules, by requiring the court

18                   (1) to hold a termination of parental rights trial no later than six months from the date  
19           the petition is filed, unless good cause is shown; and

20                   (2) to issue an order on the petition to terminate parental rights and responsibilities  
21           within a specified timeframe.

22           (b) AS 47.10.088(j) and (k), enacted in sec. 47 of this Act, take effect only if this section

1 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the  
2 State of Alaska.

3 \* Sec. 88. COURT RULE CHANGE. (a) AS 47.10.092(a), as amended by sec. 48 of this Act,  
4 amends Rule 22, Alaska Child in Need of Aid Rules, regarding disclosure of confidential  
5 information pertaining to child-in-need-of-aid proceedings.

6 (b) Section 48 of this Act takes effect only if this section receives the two-thirds majority  
7 vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska."

8 Renumber the following bill sections accordingly.

rescinded NO/OBJ; 5/2/98 am  
NO/OBJ  
AMENDMENT 2

B

FINAL act  
Withdrawn  
5/4/98

OFFERED IN THE HOUSE  
TO: CSHB 375(JUD)

BY Kelly

1 Page 62, lines 3 - 6:  
2 Delete all material and insert:  
3 \*\* Sec. 82. APPLICABILITY; CONSIDERATION OF EVIDENCE. (a) Sections 3 - 15 of this  
4 Act apply to offenses committed on or after the effective date of this Act.  
5 (b) Sections 48 and 74 of this Act apply to conduct, an activity, or an action taken under  
6 AS 47.10, 47.12, 47.17, and 47.35 regardless of whether the conduct, activity, or action occurred  
7 before, on, or after the effective date of this Act.  
8 (c) Except as provided in (a) and (b) of this section, this Act applies to  
9 (1) a case or proceeding that is filed with the court on or after the effective date of  
10 this Act;  
11 (2) an action taken under AS 47.10, 47.12, 47.17, and 47.35 on or after the effective  
12 date of this Act; and  
13 (3) a motion that is filed with the court on or after the effective date of this Act in a  
14 case or proceeding that was pending in the court before the effective date of this Act.  
15 (d) The provisions of (c) of this section do not preclude consideration of evidence of conduct  
16 or omission of any person that brings the child under the jurisdiction of AS 47.10 or 47.12."

5/2/98

0-GH2009\L.3  
Lauterbach  
5/1/98

Withdrawn 5/2/98  
AMENDMENT 3 C

OFFERED IN THE HOUSE  
TO: CSHB 375(JUD)

BY REPRESENTATIVE KELLY

1 Page 2, lines 4 - 5:

2 Delete "relating to determinations of child custody and visitation in situations  
3 involving domestic violence;"

4 Page 6, line 4:

5 Delete "in the presence of [TO]"  
6 Insert "to"

7 Page 6, line 6:

8 Delete "[ON THAT PERSON]"  
9 Insert "on that person"

10 Page 7, line 31:

11 Delete "present to care for the child"  
12

13 Page 8, line 1, following "intoxicant":

14 Insert "present to care for the child"

15 Page 17, line 18. through page 20, line 5:

16 Delete all material.

17 Renumber the following bill sections accordingly.

18 Page 20, line 20, through page 21, line 30:

19 Delete all material.

- 1 Renumber the following bill sections accordingly.
  
- 2 Page 25, lines 1 - 2:
  - 3 Delete "and AS 47.14.100(i)"
  
- 4 Page 25, lines 16 - 17:
  - 5 Delete ", as defined in AS 47.17.290,"
  
- 6 Page 25, lines 20 - 21:
  - 7 Delete "threatens the child's physical or emotional health or safety"
  - 8 Insert "places the child at substantial risk of physical or mental injury"
  
- 9 Page 26, lines 6 - 7:
  - 10 Delete all material.
  - 11 Insert "custodian have
    - 12 (A) resulted in mental injury to the child; or
    - 13 (B) placed the child at substantial risk of mental injury as a
    - 14 result of exposure to domestic violence; in this subparagraph, "domestic
    - 15 violence" means an offense committed by a household member, as defined in
    - 16 AS 18.66.990, against another household member that is
      - 17 (i) a crime against a person under AS 11.41;
      - 18 (ii) an offense under a law or ordinance of another
      - 19 jurisdiction having elements similar to a crime against a person under
      - 20 AS 11.41; or
      - 21 (iii) an attempt to commit an offense described in (i) or
      - 22 (ii) of this paragraph;"
  
- 23 Page 31, line 31:
  - 24 Delete "J is"
  - 25 Insert "ISJ"
  
- 26 Page 32, line 14:

1 Delete "quarterly"

2 Insert "semi-annually"

3 Page 34, line 9, following "period":

4 Insert "of"

5 Page 35, line 13, following ".":

6 Insert "When determining what constitutes reasonable visitation with a family member,  
7 the department shall consider the nature and quality of the relationship that existed between  
8 the child and the family member before the child was committed to the custody of the  
9 department."

10 Page 36, lines 9 - 10:

11 Delete "for placement in licensed foster care or for placement with a relative of the  
12 child"

13 Page 36, line 12:

14 Delete "and"

15 Page 36, lines 13 - 15:

16 Delete all material and insert:

17 "(2) the names, addresses, and telephone numbers of mental health  
18 providers that have provided services to the child;

19 (3) the names, addresses, and telephone numbers of schools,  
20 preschools, or day care facilities that the child was attending before the child was  
21 committed to the department;

22 (4) a description of special needs of the child, if any; and

23 (5) the names and locations of relatives who may be willing to have  
24 the child placed in their home."

25 Page 36, line 23:

26 Delete "should"

1           Insert "shall"

2   Page 37, line 12:

3           Delete "obtain legal representation for, and"

4           Delete "legal or"

5   Page 37, line 13:

6           Delete "s"

7   Page 38, lines 1 - 9:

8           Delete all material and insert:

9                   "(1) identify family support services that will assist the parent or  
10           guardian in remedying the conduct or conditions in the home that made the child a  
11           child in need of aid;

12                   (2) actively offer the parent or guardian, and refer the parent or  
13           guardian to, the services identified under (1) of this subsection; the department shall  
14           refer the parent or guardian to community-based family support services whenever  
15           community-based services are available and desired by the parent or guardian;"

16   Page 39, lines 11 - 15:

17           Delete all material.

18           Insert "parent or guardian has a mental illness or mental deficiency of such nature and  
19           duration that, according to the statement of a psychologist or physician, the parent or guardian  
20           will be incapable of caring for the child without placing the child at substantial risk of  
21           physical or mental injury even if the department were to provide family support services to  
22           the parent or guardian for 12 months;"

23   Page 39, lines 25 - 29:

24           Delete all material and insert:

25                   "(8) the parent or guardian has, for 12 consecutive months, failed to  
26           comply with a court order to participate in family support services;"

- 1 Page 40, lines 6 - 23:
- 2 Delete all material.
  
- 3 Reletter the following subsections accordingly.
  
- 4 Page 41, line 18:
- 5 Delete "significant physical harm or sexual abuse"
- 6 Insert "physical or mental injury"
  
- 7 Page 46, line 11:
- 8 Delete "AS 47.10.011"
- 9 Insert "AS 47.10.011(5)"
  
- 10 Page 49, following line 6:
- 11 Insert a new paragraph to read:
- 12 "(19) "physical injury" has the meaning given in AS 11.81.900(b);"
  
- 13 Renumber the following paragraphs accordingly.
  
- 14 Page 49, lines 22 - 24:
- 15 Delete "or to a citizen review board or local review panel for permanency planning
- 16 authorized by AS 47.14.200 - 47.14.220"
- 17 Insert "[OR TO A CITIZEN REVIEW BOARD OR LOCAL REVIEW PANEL FOR
- 18 PERMANENCY PLANNING AUTHORIZED BY AS 47.14.200 - 47.14.220]"
  
- 19 Page 52, lines 5 - 19:
- 20 Delete all material and insert:
- 21 "(2) determines that a member of the relative's household who is
- 22 16 years of age or older was the perpetrator in a substantiated report of abuse
- 23 under AS 47.17; or
- 24 (3) determines that a member of the relative's household who is
- 25 16 years of age or older is under arrest for, charged with, has been convicted of,

1 or has been found not guilty by reason of insanity of, a serious offense;  
 2 notwithstanding this paragraph, the department may place or continue the  
 3 placement of a child at the relative's home if the relative demonstrates to the  
 4 satisfaction of the department that conduct described in this paragraph occurred  
 5 at least five years before the intended placement and the conduct

6 (A) did not involve a victim who was under 18 year of age  
 7 at the time of the conduct;

8 (B) was not a crime of domestic violence as defined in  
 9 AS 18.66.990; and

10 (C) was not a violent crime under AS 11.41.100 - 11.41.455  
 11 or a law or ordinance of another jurisdiction having similar elements."

12 Page 52, line 20:

13 Delete "a new subsection"

14 Insert "new subsections"

15 Page 52, following line 23:

16 Insert a new subsection to read:

17 "(j) For the purpose of determining whether the home of a relative meets the  
 18 requirements for placement of a child, the department shall conduct a criminal  
 19 background check from state and national criminal justice information available under  
 20 AS 12.62. The department may conduct a fingerprint background check on any  
 21 member of the relative's household who is 16 years of age or older when the relative  
 22 requests placement of the child. For the purposes of obtaining criminal justice  
 23 information under this subsection, the department is a criminal justice agency  
 24 conducting a criminal justice activity under AS 12.62."

25 Page 53, line 28:

26 Delete "If a team is"

27 Insert "A team"

28 Delete ", the team"

1 Page 55, following line 10:

2 Insert a new bill section to read:

3 **\*\* Sec. 63.** AS 47.14.990 is amended by adding new paragraphs to read:

4 (11) "criminal justice information" has the meaning given in

5 AS 12.62.900;

6 (12) "serious offense" has the meaning given in AS 12.62.900."

7 Renumber internal references to bill sections in accordance with this amendment. Below are

8 all internal bill section references in this bill:

9 Page 61, line 22

10 Page 61, line 25

11 Page 61, line 28

12 Page 62, line 1

5/2/98

Withdrawn  
Amendment 4

D

5/2/98 a.m.

Conceptual  
GH2009L

Offered in the House

To: HB 375

By: Representative Kelly

- 1 Page 12, line 5, after "other persons"
- 2 Add: ", including educators,"
  
- 3 Page 22, line 17, after "appropriate"
- 4 Add: "pre-natal and after birth"
  
- 5 Page 25, line 10, delete: "not made satisfactory"
- 6 Insert: "neglected to make adequate"
  
- 7 page 26, line 26, after "supervision"
- 8 Insert: ", considering the child's age and need for care by an adult"
  
- 9 Page 36, line 27, after "shall"
- 10 Insert: "keep the health and safety of the child as the court's paramount concern"
  
- 11 Page 36, line 31 and page 37, line 1, delete all material
- 12 Substitute: **(3) consider the potential harm to the child caused by removal of the child from the home and family environment [AS 47.10.010 – 47.10.142].**

Conceptual Amendment  
Page 2.

13 Page 46, line 15 and 16, after "order"

14 delete: "that the child's [MINOR'S] parent or guardian (1)"

17

Insert: **"(1) the child participate in treatment:**

18

**(2) the parent or guardian** personally participate in treatment reasonably available in the parent's or guardian's community as specified in a plan set out in the court order; [OR] **and**

**[(2)](3) the child and parent or guardian comply** with other conditions set out in the court order."

15 Create a new bill section to read as follows:

**16** "AS 47.10.142(d) The court shall immediately, and in no event more than 48 hours after being notified unless prevented by lack of transportation, hold a hearing at which the minor, if the minor's health permits, and the minor's parents or guardian, if they can be found, shall be [PERMITTED TO BE] present. The court shall determine whether probable cause exists for believing the minor to be a child in need of aid, as defined in AS 47.10.990. **In determining the appropriateness of out-of-home placement for the child the court shall consider the potential harm to the child caused by the child's removal from the home or family environment.** The court shall inform the minor, and the minor's parents or guardian if they can be found, of the reasons given as constituting probable cause and the reasons given as authorizing the minor's temporary placement. **If the cause for determining the minor to be a child in need of aid is a result of actions of the parent or guardian, the court shall issue a finding that the parent or guardian has committed an act that is a violation of Alaska's child protection laws.**"

17 Add a new bill section to read:

**18** "AS 47.17.290(10) "mental injury" means [AN] **a serious** injury to the emotional well-being, or intellectual or psychological capacity of a child, as evidenced by an observable and substantial impairment in the child's ability to function in a developmentally appropriate manner;"

withdrawn  
~~4/27~~ 5/4/98P E

0-GH2009\L.4  
Lauterbach  
5/3/98

AMENDMENT 5

OFFERED IN THE HOUSE  
TO: CSHB 375(JUD)

BY REPRESENTATIVE KELLY

- 1 Page 2, lines 4 - 5:
- 2 Delete "relating to determinations of child custody and visitation in situations
- 3 involving domestic violence;"
  
- 4 Page 6, line 4:
- 5 Delete "in the presence of [TO]"
- 6 Insert "to"
  
- 7 Page 6, line 6:
- 8 Delete "[ON THAT PERSON]"
- 9 Insert "on that person"
  
- 10 Page 7, line 31:
- 11 Delete "present to care for the child"
- 12
- 13 Page 8, line 1, following "intoxicant":
- 14 Insert "present to care for the child"
  
- 15 Page 12, line 5, following "persons":
- 16 Insert ", including educators,"
  
- 17 Page 17, line 18, through page 20, line 5:
- 18 Delete all material.
  
- 19 Renumber the following bill sections accordingly.

- 1 Page 20, line 20, through page 21, line 30:
- 2 Delete all material.
  
- 3 Renumber the following bill sections accordingly.
  
- 4 Page 22, line 17, following "appropriate":
- 5 Insert "prenatal and postnatal"
  
- 6 Page 25, lines 1 - 2:
- 7 Delete "and AS 47.14.100(i)"
  
- 8 Page 25, line 10:
- 9 Delete "satisfactory"
- 10 Insert "adequate"
  
- 11 Page 25, lines 16 - 17:
- 12 Delete ", as defined in AS 47.17.290,"
  
- 13 Page 25, lines 20 - 21:
- 14 Delete "threatens the child's physical or emotional health or safety"
- 15 Insert "places the child at substantial risk of physical or mental injury"
  
- 16 Page 26, lines 6 - 7:
- 17 Delete all material.
- 18 Insert "custodian have
- 19 (A) resulted in mental injury to the child; or
- 20 (B) placed the child at substantial risk of mental injury as a
- 21 result of exposure to domestic violence, and the conduct or conditions that
- 22 placed the child at substantial risk of mental injury are likely to continue; in
- 23 this subparagraph, "domestic violence" means an offense committed by a
- 24 household member, as defined in AS 18.66.99), against another household
- 25 member that is

- 1 (i) a crime against a person under AS 11.41;
- 2 (ii) an offense under a law or ordinance of another
- 3 jurisdiction having elements similar to a crime against a person under
- 4 AS 11.41; or
- 5 (iii) an attempt to commit an offense described in (i) or
- 6 (ii) of this subparagraph;"

7 Page 26, line 26, following "supervision":

8 Insert ", considering the child's age and need for care by an adult"

9 Page 31, line 31:

10 Delete "] is"

11 insert "IS]"

12 Page 34, line 9, following "period":

13 Insert "of"

14 Page 35, line 13, following ".":

15 Insert "When determining what constitutes reasonable visitation with a family member,  
16 the department shall consider the nature and quality of the relationship that existed between  
17 the child and the family member before the child was committed to the custody of the  
18 department."

19 Page 36, lines 9 - 10:

20 Delete "for placement in licensed foster care or for placement with a relative of the  
21 child"

22 Page 36, line 12:

23 Delete "and"

24 Page 36, lines 13 - 15:

25 Delete all material and insert:

- 1                   (2) the names, addresses, and telephone numbers of mental health
- 2 providers that have provided services to the child;
- 3                   (3) the names, addresses, and telephone numbers of schools,
- 4 preschools, or day care facilities that the child was attending before the child was
- 5 committed to the department;
- 6                   (4) a description of special needs of the child, if any; and
- 7                   (5) the names and locations of relatives who may be willing to have
- 8 the child placed in their home."

9 Page 36, line 23:

- 10           Delete "should"
- 11           Insert "shall"

12 Page 36, line 26, through page 37, line 1:

13           Delete all material and insert:

14                   "Sec. 47.10.082. Health and safety [BEST INTERESTS] of child and other

15 considerations. In making its dispositional order under AS 47.10.080(c), the court

16 shall keep the health and safety of the child as the court's paramount concern

17 and consider

- 18                   (1) the best interests of the child; [AND]
- 19                   (2) the ability of the state to take custody and to care for the child to
- 20 protect the child's best interests under AS 47.10.005 - 47.10.142; and
- 21                   (3) the potential harm to the child caused by removal of the child
- 22 from the home and family environment [AS 47.10.010 - 47.10.142]."

23 Page 37, line 12:

- 24           Delete "obtain legal representation for, and"
- 25           Delete "legal or"

26 Page 37, line 13:

- 27           Delete " ,"

1 Page 38, lines 1 - 9:

2 Delete all material and insert:

3 "(1) identify family support services that will assist the parent or  
4 guardian in remedying the conduct or conditions in the home that made the child a  
5 child in need of aid;

6 (2) actively offer the parent or guardian, and refer the parent or  
7 guardian to, the services identified under (1) of this subsection; the department shall  
8 refer the parent or guardian to community-based family support services whenever  
9 community-based services are available and desired by the parent or guardian;"

10 Page 39, lines 5 - 6:

11 Delete all material and insert:

12 "(3) the parent or guardian has, for 12 consecutive months, failed to  
13 comply with a court order to participate in family support services;"

14 Page 39, lines 11 - 15:

15 Delete all material.

16 Insert "parent or guardian has a mental illness or mental deficiency of such nature and  
17 duration that, according to the statement of a psychologist or physician, the parent or guardian  
18 will be incapable of caring for the child without placing the child at substantial risk of  
19 physical or mental injury even if the department were to provide family support services to  
20 the parent or guardian for 12 months;"

21 Page 40, lines 6 - 23:

22 Delete all material.

23 Reletter the following subsections accordingly.

24 Page 41, line 18:

25 Delete "significant physical harm or sexual abuse"

26 Insert "physical or mental injury"

1 Page 46, line 11:

2 Delete "AS 47.10.011"

3 Insert "AS 47.10.011(5)"

4 Page 46, lines 16 - 19:

5 Delete "child's [MINOR'S] parent or guardian

6 (1) personally participate in treatment reasonably available in the  
7 parent or guardian's community as specified in a plan set out in the court order; and

8 (2) comply with other conditions set out in the court order."

9 Insert

10 "(1) child participate in treatment:

11 (2) [MINOR'S] parent or guardian [(1)] personally participate in  
12 treatment reasonably available in the parent or guardian's community as specified in  
13 a plan set out in the court order; and

14 (3) child and the parent or guardian [(2)] comply with other  
15 conditions set out in the court order."

16 Page 49, following line 6:

17 Insert a new paragraph to read:

18 "(19) "physical injury" has the meaning given in AS 11.81.900(b);"

19 Renumber the following paragraphs accordingly.

20 Page 49, lines 22 - 24:

21 Delete "or to a citizen review board or local review panel for permanency planning  
22 authorized by AS 47.14.200 - 47.14.220"

23 Insert "[OR TO A CITIZEN REVIEW BOARD OR LOCAL REVIEW PANEL FOR  
24 PERMANENCY PLANNING AUTHORIZED BY AS 47.14.200 - 47.14.220]"

25 Page 50, line 20:

26 Delete "(e), (f), and (i)"

27 Insert "(c), (f), (i), and (j)"

1 Page 52, lines 5 - 19:

2 Delete all material and insert:

3 "(2) determines that a member of the relative's household who is  
4 12 years of age or older was the perpetrator in a substantiated report of abuse  
5 under AS 47.17; or

6 (3) determines that a member of the relative's household who is  
7 12 years of age or older is under arrest for, charged with, has been convicted of,  
8 or has been found not guilty by reason of insanity of, a serious offense;  
9 notwithstanding this paragraph, the department may place or continue the  
10 placement of a child at the relative's home if the relative demonstrates to the  
11 satisfaction of the department that conduct described in this paragraph occurred  
12 at least five years before the intended placement and the conduct

13 (A) did not involve a victim who was under 18 year of age  
14 at the time of the conduct;

15 (B) was not a crime of domestic violence as defined in  
16 AS 18.66.990; and

17 (C) was not a violent crime under AS 11.41.100 - 11.41.455  
18 or a law or ordinance of another jurisdiction having similar elements."

19 Page 52, line 20:

20 Delete "a new subsection"

21 Insert "new subsections"

22 Page 52, line 23:

23 Delete "one"

24 Insert "a"

25 Page 52, following line 23:

26 Insert a new subsection to read:

27 "(j) For the purpose of determining whether the home of a relative meets the  
28 requirements for placement of a child, the department shall conduct a criminal  
29 background check from state and national criminal justice information available under

1 AS 12.62. The department may conduct a fingerprint background check on any  
 2 member of the relative's household who is 12 years of age or older when the relative  
 3 requests placement of the child. For the purposes of obtaining criminal justice  
 4 information under this subsection, the department is a criminal justice agency  
 5 conducting a criminal justice activity under AS 12.62."

6 Page 53, line 28:

- 7 Delete "If a team is"
- 8 Insert "A team"
- 9 Delete ", the team"

10 Page 55, following line 10:

11 Insert a new bill section to read:

12 **\*\* Sec. 63.** AS 47.14.990 is amended by adding new paragraphs to read:

- 13 (11) "criminal justice information" has the meaning given in
- 14 AS 12.62.900;
- 15 (12) "serious offense" has the meaning given in AS 12.62.900."

16 Renumber the following bill sections accordingly.

17 Page 57, following line 20:

18 Insert a new bill section to read:

19 **\*\* Sec. 70.** AS 47.17.290(9) is amended to read:

- 20 (9) "mental injury" means a serious [AN] injury to the emotional well-
- 21 being [,] or intellectual or psychological capacity of a child that, according to the
- 22 statement of a psychologist or physician, is [, AS] evidenced by an observable and
- 23 substantial impairment in the child's ability to function in a developmentally
- 24 appropriate manner;"

25 Renumber the following bill sections accordingly.

26 Renumber internal references to bill sections in accordance with this amendment. Below are

1 all internal bill section references in this bill:

2 Page 61, line 22

3 Page 61, line 25

4 Page 61, line 28

5 Page 62, line 1

NO OBJ adpt  
**NEW E**  
AMENDMENT 5

0-GH2009AL.4  
Lauterbach  
5/3/98

OFFERED IN THE HOUSE  
TO: CSHB 375(JUD)

BY REPRESENTATIVE KELLY

1 Page 2, lines 4 - 5:

2 Delete "relating to determinations of child custody and visitation in situations  
3 involving domestic violence;"

4 Page 6, line 4:

5 Delete "in the presence of [TO]"

6 Insert "to"

7 Page 6, line 6:

8 Delete "[ON THAT PERSON]"

9 Insert "on that person"

9a Page 7, line 30: Delete "a controlled substance" Insert: "an intoxicant"

10 Page 7, line 31:

11 Delete "present to care for the child"

12

13 Page 8, line 1, following "intoxicant":

14 Insert "present to care for the child"

15 Page 12, line 5, following "persons":

16 Insert ", including educators."

17 Page 17, line 18, through page 20, line 5:

18 Delete all material.

19 Renumber the following bill sections accordingly.

1 Page 20, line 20, through page 21, line 30:

2 Delete all material.

3 Renumber the following bill sections accordingly.

4 Page 22, line 17, following "appropriate":

5 Insert "prenatal and postnatal"

6 Page 25, lines 1 - 2:

7 Delete "and AS 47.14.100(i)"

8 Page 25, line 10:

9 Delete "satisfactory"

10 Insert "adequate"

11 Page 25, lines 16 - 17:

12 Delete ", as defined in AS 47.17.290,"

13 Page 25, lines 20 - 21:

14 Delete "threatens the child's physical or emotional health or safety"

15 Insert "places the child at substantial risk of physical or mental injury"

~~16 Page 26, lines 6 - 7:~~

→ REPLACE WITH AMENDMENT ←

~~17 Delete all material.~~

~~18 Insert "custodian have~~

~~19 (A) resulted in mental injury to the child; or~~

~~20 (B) placed the child at substantial risk of mental injury as a~~

~~21 result of exposure to domestic violence, and the conduct or conditions that~~

~~22 placed the child at substantial risk of mental injury are likely to continue; in~~

~~23 this subparagraph, "domestic violence" means an offense committed by a~~

~~24 household member, as defined in AS 18.66.990, against another household~~

~~25 member that is~~

1 (i) a crime against a person under AS 11.41;  
 2 (ii) an offense under a law or ordinance of another  
 3 jurisdiction having elements similar to a crime against a person under  
 4 AS 11.41; or  
 5 (iii) an attempt to commit an offense described in (i) or  
 6 (ii) of this subparagraph;" → REPLACE W/ AMENDMENT K

7 Page 26, line 26, following "supervision":

8 Insert ", considering the child's age and need for care by an adult"

9 Page 31, line 31:

10 Delete "] is"

11 Insert "TSJ"

12 Page 34, line 9, following "period":

13 Insert "of"

14 Page 35, line 13, following ".":

15 Insert "When determining what constitutes reasonable visitation with a family member,  
 16 the department shall consider the nature and quality of the relationship that existed between  
 17 the child and the family member before the child was committed to the custody of the  
 18 department."

19 Page 36, lines 9 - 10:

20 Delete "for placement in licensed foster care or for placement with a relative of the  
 21 child"

22 Page 36, line 12:

23 Delete "and"

24 Page 36, lines 13 - 15:

25 Delete all material and insert:

1                   "(2) the names, addresses, and telephone numbers of mental health  
2 providers that have provided services to the child;

3                   (3) the names, addresses, and telephone numbers of schools,  
4 preschools, or day care facilities that the child was attending before the child was  
5 committed to the department;

6                   (4) a description of special needs of the child, if any; and

7                   (5) the names and locations of relatives who may be willing to have  
8 the child placed in their home."

8. PAGE 36, LINE 23 AFTER "requests a" INSERT: "non emergency

9 Page 36, line 23:

10 Delete "should"

11 Insert "shall"

12 Page 36, line 26. through page 37, line 1:

13 Delete all material and insert:

14                   "Sec. 47.10.082. Health and safety (BEST INTERESTS) of child and other  
15 considerations. In making its dispositional order under AS 47.10.080(c), the court  
16 shall keep the health and safety of the child as the court's paramount concern  
17 and consider

18                   (1) the best interests of the child; [AND]

19                   (2) the ability of the state to take custody and to care for the child to  
20 protect the child's best interests under AS 47.10.005 - 47.10.142; and

21                   (3) the potential harm to the child caused by removal of the child  
22 from the home and family environment [AS 47.10.010 - 47.10.142]."

23 Page 37, line 12:

24 Delete "obtain legal representation for, and"

25 Delete "legal or"

26 Page 37, line 13:

27 Delete "1"

1 Page 38, lines 1 - 9:

2 Delete all material and insert:

3 "(1) identify family support services that will assist the parent or  
4 guardian in remedying the conduct or conditions in the home that made the child a  
5 child in need of aid;

6 (2) actively offer the parent or guardian, and refer the parent or  
7 guardian to, the services identified under (1) of this subsection; the department shall  
8 refer the parent or guardian to community-based family support services whenever  
9 community-based services are available and desired by the parent or guardian;"

10 Page 39, lines 5 - 6:

11 Delete all material and insert:

12 "(3) the parent or guardian has, <sup>during the</sup> ~~for~~ 12 <sup>preceeding the permanency</sup> ~~consecutive~~ months, <sup>hearing</sup> failed to  
13 comply with a court order to participate in family support services;"

14 Page 39, lines 11 - 15:

15 Delete all material.

16 Insert "parent or guardian has a mental illness or mental deficiency of such nature and  
17 duration that, according to the statement of a psychologist or physician, the parent or guardian  
18 will be incapable of caring for the child without placing the child at substantial risk of  
19 physical or mental injury even if the department were to provide family support services to  
20 the parent or guardian for 12 months;"

21 Page 40, lines 6 - 23:

22 Delete all material.

23 Reletter the following subsections accordingly.

24 Page 41, line 18:

25 Delete "significant physical harm or sexual abuse"

26 Insert "physical or mental injury"

1 Page 46, line 11:

2 Delete "AS 47.10.011"

3 Insert "AS 47.10.011(5)"

4 Page 46, lines 16 - 19:

5 Delete "child's [MINOR'S] parent or guardian

6 (1) personally participate in treatment reasonably available in the  
7 parent or guardian's community as specified in a plan set out in the court order; and

8 (2) comply with other conditions set out in the court order."

9 Insert

10 "(1) child participate in treatment:

11 (2) [MINOR'S] parent or guardian [(1)] personally participate in  
12 treatment reasonably available in the parent or guardian's community as specified in  
13 a plan set out in the court order; and

14 (3) child and the parent or guardian [(2)] comply with other  
15 conditions set out in the court order."

16 Page 49, following line 6:

17 Insert a new paragraph to read:

18 "(19) "physical injury" has the meaning given in AS 11.81.900(b);"

19 Renumber the following paragraphs accordingly.

20 Page 49, lines 22 - 24:

21 Delete "or to a citizen review board or local review panel for permanency planning  
22 authorized by AS 47.14.200 - 47.14.220"

23 Insert "[OR TO A CITIZEN REVIEW BOARD OR LOCAL REVIEW PANEL FOR  
24 PERMANENCY PLANNING AUTHORIZED BY AS 47.14.200 - 47.14.220]"

25 Page 50, line 20:

26 Delete "(e), (f), and (i)"

27 Insert "(e), (f), (i), and (j)"

1 Page 52, lines 5 - 19:

2 Delete all material and insert:

3 "(2) determines that a member of the relative's household who is  
4 12 years of age or older was the perpetrator in a substantiated report of abuse  
5 under AS 47.17; or

6 (3) determines that a member of the relative's household who is  
7 12 years of age or older is under arrest for, charged with, has been convicted of,  
8 or has been found not guilty by reason of insanity of, a serious offense;  
9 notwithstanding this paragraph, the department may place or continue the  
10 placement of a child at the relative's home if the relative demonstrates to the  
11 satisfaction of the department that conduct described in this paragraph occurred  
12 at least five years before the intended placement and the conduct

13 (A) did not involve a victim who was under 18 year of age  
14 at the time of the conduct;

15 (B) was not a crime of domestic violence as defined in  
16 AS 18.66.990; and

17 (C) was not a violent crime under AS 11.41.100 - 11.41.455  
18 or a law or ordinance of another jurisdiction having similar elements."

19 Page 52, line 20:

20 Delete "a new subsection"

21 Insert "new subsections"

22 Page 52, line 23:

23 Delete "one"

24 Insert "a"

25 Page 52, following line 23:

26 Insert a new subsection to read:

27 "(j) For the purpose of determining whether the home of a relative meets the  
28 requirements for placement of a child, the department shall conduct a criminal  
29 background check from state and national criminal justice information available under

1 AS 12.62. The department may conduct a fingerprint background check on any  
 2 member of the relative's household who is 12 years of age or older when the relative  
 3 requests placement of the child. For the purposes of obtaining criminal justice  
 4 information under this subsection, the department is a criminal justice agency  
 5 conducting a criminal justice activity under AS 12.62."

6 Page 53, line 28:  
 7 Delete "If a team is"  
 8 Insert "A team"  
 9 Delete ", the team"

10 Page 55, following line 10:  
 11 Insert a new bill section to read:  
 12 **\*\* Sec. 63.** AS 47.14.990 is amended by adding new paragraphs to read:  
 13 (11) "criminal justice information" has the meaning given in  
 14 AS 12.62.900;  
 15 (12) "serious offense" has the meaning given in AS 12.62.900."

16 Renumber the following bill sections accordingly.

17 ~~Page 57, following line 20:~~ → REPLACE WITH AMENDMENT K  
 18 Insert a new bill section to read:  
 19 **\*\* Sec. 70.** AS 47.17.290(9) is amended to read:  
 20 (9) "mental injury" means a serious [AN] injury to the emotional well-  
 21 being [,] or intellectual or psychological capacity of a child that, according to the  
 22 statement of a psychologist or physician, is [ AS] evidenced by an observable and  
 23 substantial impairment in the child's ability to function in a developmentally  
 24 appropriate manner;"

25 Renumber the following bill sections accordingly.

26 Renumber internal references to bill sections in accordance with this amendment. Below are

1 all internal bill section references in this bill:

2 Page 61, line 22

3 Page 61, line 25

4 Page 61, line 28

5 Page 62, line 1

NO JOB;

adopted

AMENDMENT

F replaces

0-GH2009L.6  
Lauterbach  
5/3/98

(B)

OFFERED IN THE HOUSE  
TO: CSHB 375(JUD)

BY REPRESENTATIVE KELLY

1 Page 62, line 3 - 6:

2 Delete all material and insert:

3 **\*\* Sec. 82. APPLICABILITY.** (a) The amendments made in secs. 3 - 15 of this Act  
4 apply to offenses committed on or after the effective date of this Act, except that references  
5 in secs. 3 - 15 of this Act to previous convictions include convictions occurring before, on,  
6 or after the effective date of this Act.

7 (b) Except as provided in secs. 83 and 84 of this Act and (a) of this section, this Act  
8 applies to

9 (1) a case or proceeding that is filed with the court on or after the effective  
10 date of this Act;

11 (2) an action taken under AS 47.10, AS 47.12, AS 47.17, or AS 47.35 on or  
12 after the effective date of this Act; and

13 (3) a motion that is filed with the court on or after the effective date of this  
14 Act in a case or proceeding that was pending in the court before the effective date of this  
15 Act.

16 (c) The provisions of (b) of this section do not preclude consideration of evidence  
17 of conduct or omission of a person that brings a child under the jurisdiction of AS 47.10 or  
18 AS 47.12.

19 **\* Sec. 83. TRANSITIONAL PROVISION; FOSTER CARE LICENSING.** (a) Unless the  
20 information has been previously submitted to the Department of Health and Social Services,  
21 an application for biennial renewal of a foster care license under AS 47.35 must include the  
22 information required under AS 47.35.017(b), as amended by sec. 74 of this Act.

23 (b) The Department of Health and Social Services may require, as a condition of  
24 continued licensure, that a foster care licensee under AS 47.35 submit the additional  
25 information required under AS 47.35.017(b), as amended by sec. 74 of this Act, before the

0-GH2009AL6

- 1 licensee is required to submit the additional information under (a) of this section.
- 2 \* Sec. 54. TRANSITIONAL PROVISION; DISCLOSURE OF AGENCY RECORDS. (a)
- 3 The Department of Health and Social Services may disclose information and make copies of
- 4 documents available to state officials or employees as authorized under AS 47.10.092(a), as
- 5 amended by sec. 48 of this Act, based on an appropriate request that was received before, on,
- 6 or after the effective date of this Act.
- 7 (b) The Department of Health and Social Services, a parent, or a legal guardian may
- 8 disclose information as authorized under AS 47.10.092(a), as amended by sec. 48 of this Act,
- 9 regardless of when the information came into the possession or knowledge of the department,
- 10 parent, or legal guardian and regardless of when the conduct or situation described in the
- 11 information occurred."
- 12 Renumber the following bill section accordingly.

NO OBJ 5/4/98  
if necess. title amend  
~~withdrawn~~

0-GH2009\L  
5/2/98

adopted

AMENDMENT

G

OFFERED IN THE HOUSE  
TO: CSHB375 (JUD)

BY \_\_\_\_\_

64  
Sec. ● AS 47.14 is amended by adding a new section to read:

**Sec. 47.14.115. Training of foster parents.** If the department has placed a child in a foster home the department shall, no less often than once quarterly, make available training that will assist the foster parent or parents in providing care that will meet the needs of the child placed in the home and the requirements established by the department in regulation.

Amend title as necessary to describe this amendment

5-4-98 pm

NO OBJ; adopted  
H  
8

by Kelly

Conceptual Amendments to HB 375:

The following amendments parallel amendments made in the Senate to the companion Senate Bill 272.

Section 3, page 3, lines 8-20:  
Delete. (material is in SB 218).

Section 4, page 3, lines 27-31 and page 4, lines 1-25:  
Delete (material is in SB 218).

Section 7, page 5, lines 23-31:  
Delete (material is in SB 323).

Section 8, page 6, lines 1 - 9:  
Delete (material is in SB 323).

Section 11, page 8, lines 9-12:  
Delete. (Deletion of Section 13 requires deletion of Section 11).

Section 12, page 8, lines 13-31 and page 9, lines 1-3:  
Delete. (material is in SB 218).

Section 13, page 9, lines 4-16:  
Delete. (material is in SB 218).

Section 15, page 9, lines 25-30:  
Delete. (Deletion of Section 12 requires deletion of Section 15).

adopted

NO/03;

5/4/98 P

Alaska Court System  
Amendment to CSHB 375(JUD)  
05/04/98

9

I

Page 2, lines 6 -7

Following "Rules;" delete "and providing for an effective date."

Page 62, line 7

Delete all material

NEW J 5/5/98 am

0-GH2009\L  
5/2/98

No obj adpt 5/5/98

AMENDMENT 10

OFFERED IN THE HOUSE

BY \_\_\_\_\_

TO: CSHB375 (JUD) ★ place in approp. sequence

\* Sec. 47 AS <sup>47</sup> ~~10~~.10.090(e) is amended to read:

(e) The court's official records under this chapter may be inspected only with the court's permission and only by person having a legitimate interest in them. **A foster parent <sup>is</sup> considered to have a legitimate interest in those portions of the court's records relating to a child who is placed by the department with the foster parent or who the department proposed for placement with the foster parent.**

Renumber sections accordingly.

If necessary, amend the bill title to describe this amendment.

WITHDRAWN 9/4/98  
AMENDMENT

J 10

5/4/98 P

OFFERED IN THE HOUSE  
TO: CS HB 375 (SUD)

By: \_\_\_\_\_

ADD NEW SECTION NUMBERS & RENUMBER ACCORDINGLY

\* Sec. AS 47.10.090(e) is amended to read:  
regarding a child

(e) The court's official records under this chapter may be inspected only with the court's permission and only by persons having a legitimate interest in them. **A foster parent is considered to have a legitimate interest in the records of a child who is already placed with the foster parent or who is recommended for placement with the foster parent.**

adopted N/O 5/5/98 conceptual  
AMENDMENT 11 K

OFFERED IN THE HOUSE  
TO: CSHB 375 (JUD)

26  
Page ~~54~~, lines ~~7-10~~ 6-7

Delete all material.

Insert "custodian have

- (A) resulted in mental injury to the child; or
- (B) placed the child at substantial risk of mental injury as a result of
  - (i) a pattern of rejecting, terrorizing, ignoring, isolating, or corrupting behavior that would, if continued, result in mental injury, or
  - (ii) exposure to domestic violence; in this subparagraph, "domestic violence" means conduct by a household member described in AS 18.66.990, against another household member that is

- (1) a crime against a person under AS 11.41.;
- (2) an offense under a law or ordinance of another jurisdiction having elements similar to a crime against a person under AS 11.41.;
- (3) an attempt to commit an offense described in (i) or (ii) of this subparagraph;"

57 20  
Page ~~54~~, following line ~~39~~:

Insert a new bill section to read:

Section ~~10~~ AS 47.17.290(9) is amended to read:

70 (9) "mental injury" means a serious [AN] injury to the emotional well-being [;] or intellectual or psychological capacity of a child, as evidenced by an observable and substantial impairment in the child's ability to function in a developmentally appropriate manner [;] and the existence of that impairment is supported by the opinion of a [mental health or medical professional].

qualified expert witness

84

R.W.C.

Parled 3-5

5/5/98

AMENDMENT

12

L

OFFERED IN THE HOUSE

BY

DAVIES

TO CSHB 375 (JUD) Amendment E (L.4)

Page 1, delete lines 1 - 3

Page 1, delete lines 17 - 18

Page 2, delete lines 1 - 3

5/5/98 am

withdrawn -  
AMENDMENT

13 - m

OFFERED IN THE HOUSE  
TO CSHB 375 (JUD) (L version)

BY DAVIES

Page 17, line 20, after "finds"

Insert "by a preponderance of the evidence"

5/5/98

withdrawn  
AMENDMENT 14.

N

OFFERED IN THE HOUSE  
TO CSHB 375 (JUD) (L version)

BY DAVIES

Page 17, line 21, after "domestic violence"

Insert "as defined in AS 18.66.990 (3) (A) or (G)"

Withdrawn 5/5/98 ak  
AMENDMENT 15. ①

OFFERED IN THE HOUSE  
TO CSHB 375 (JUD) (L version)

BY DAVIES

Page 17, line 20, following "domestic violence."

Delete through page 17, line 29 "section, if"

Insert "If"

5/5/98

repeat of L  
AMENDMENT P

OFFERED IN THE HOUSE

BY DR. H. S.

TO CSHB 375 (JUD) Amendment E (L.4)

Page 1, delete lines 1 - 3

Page 1, delete lines 17 - 18

Page 2, delete lines 1 - 3



# REPRESENTATIVE FRED DYSON

5/2/98 am

Alaska State Legislature

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## MEMORANDUM

April 29, 1998

To: Russ Webb, DFYS

From: Fred Dyson

RE: DFYS Reporting

This memo is to confirm our earlier conversations concerning DFYS accountability and reporting.

I would like to request that you report the following information monthly:

**Number of reports of harm to children by type of harm per month:**

- Neglect \_\_\_\_\_
- Physical Abuse \_\_\_\_\_
- Sexual Abuse \_\_\_\_\_
- Mental Injury \_\_\_\_\_
- Abandonment \_\_\_\_\_

**Number of substantiated Child Reports of Harm by type of Harm per month:**

- Neglect \_\_\_\_\_
- Physical Abuse \_\_\_\_\_
- Sexual Abuse \_\_\_\_\_
- Mental Injury \_\_\_\_\_
- Abandonment \_\_\_\_\_

**Number of Children placed in State Custody this month:**

- In Relatives Homes \_\_\_\_\_
- Foster Homes \_\_\_\_\_
- Residential Care \_\_\_\_\_
- Parent's Home \_\_\_\_\_

**Total Number of Children in State custody \_\_\_\_\_**

**Number of Children in State custody more than:**

- One year \_\_\_\_\_
- Two years \_\_\_\_\_
- Three years \_\_\_\_\_
- Four years \_\_\_\_\_
- Five years \_\_\_\_\_

- E-mail -  
Representative\_Fred\_Dyson  
@Legis.state.ak.us

- Internet -  
<http://www.akrepublicans.org>

**Number of Children with more than:**

- Three placements per year \_\_\_\_\_
- Five placements per year \_\_\_\_\_
- Seven placements per year \_\_\_\_\_

**Number of children harmed in State care:**

- This month \_\_\_\_\_
- Last month \_\_\_\_\_
- Year to Date \_\_\_\_\_

**Number of Children adopted:**

- This month \_\_\_\_\_
- Last month \_\_\_\_\_
- Year to Date \_\_\_\_\_

**Number of Children presently awaiting adoption: \_\_\_\_\_**

**Number of special needs children awaiting adoption: \_\_\_\_\_**

**Number of Parental Rights Terminations completed this month: \_\_\_\_\_**

CSHB 375 "L" (HJUD)	CSHB 375 "H" (HHES)	HB 375 "A" (Gov)	Subject	Statutes
1	1	1	<b>Intent &amp; Policy</b>	
2	2	2		AS 10.06.961(a)
3	3	3	<b>Murder One</b>	AS 11.41.100(a)
4	4	4	<b>Murder Two</b>	AS 11.41.110(a)
5	5	6	<b>Kidnapping</b>	AS 11.41.300(a)
6	6	7	<b>Kidnapping</b>	AS 11.41.300(c)
7	7	8	<b>Indecent Exposure One</b>	AS 11.41.458
8	8	9	<b>Indecent Exposure Two</b>	AS 11.41.460
9	9	10	<b>Endangering Welfare One</b>	AS 11.51.100
10	10	11	<b>Endangering Welfare Two</b>	AS 11.51.110
deleted	deleted	11	<b>Crim. non-support One</b>	AS 11.51.115
deleted	deleted	12	<b>Crim. non-support Two</b>	AS 11.51.120(a)
deleted	deleted	12	<b>Crim. non-support Two</b>	AS 11.51.120(c)
11	11	none		AS 12.55.025(i)
12	12	13		AS 12.55.125(c)
13	13	14	<b>Penalties for Crimes</b>	AS 12.55.125(k)
14	none	none		AS 12.55.155(c)(23)
15	14	none		AS 12.55.155(e)
16	15	17	<b>Death Reporting</b>	AS 12.65.005(a)
17	16	18	<b>Fatality Team</b>	AS 12.65.015
18	17	19	Records/Duties/ Confidentiality (Immunity)	AS 12.65.000
19	18	20	<b>Teacher Certif. Revoked</b>	AS 14.20.020(f)
20	19	21		AS 14.20.030(b)
21	20	23	<b>Functions/Powers District Judges/Magistrate</b>	AS 22.15.100
22	21	none	<b>Rebuttable Presumption</b>	AS 25.20.061
23	22	none	<b>Temp. Custody-DV Rlat'n</b>	AS 25.20.070
24	23	none	<b>Custody Rlat'd to Sec. 21</b>	AS 25.20.090
25	24	none	<b>Termination</b>	AS 25.23.180(c)
26	25	none	<b>Custody Rlat'd to Sec. 21</b>	AS 25.24.150(c)
27	26	none	<b>PFD Rlat'd to Sec. 21</b>	AS 43.23.065(b)
28	27	1	<b>Findings</b>	AS 47.05.065
29	28	25	<b>Adoption Compact</b>	AS 47.05.090
30	29	26	<b>Construction</b>	AS 47.10.005
31	30	27	<b>Jurisdiction</b>	AS 47.10.010
32	31	28	<b>Children in Need of Aid</b>	AS 47.10.011
33	32	29		AS 47.10.020
34	33	30		AS 47.10.020(b)
35	34	none	<b>Proceeding Notice</b>	AS 47.10.030(b)
36	35	31		AS 47.10.050(a)
37	36	none	<b>Foster Parents\</b>	AS 47.10.070(a)

CSHB 375 "L" (HJUD)	CSHB 375 "H" (HHES)	HB 375 "A" (Gov)	Subject	Statutes
			<b>Others Testify</b>	
38	37	33	Adjudication Hearing 120 days after probable cause	AS 47.10.080(a)
39	38	34	Commitment	AS 47.10.080(c)
40	39	35		AS 47.10.080(f)
41	40	36	Appeal CINA	AS 47.10.080(i)
42	41	37	Permanency Hearing	AS 47.10.080(l)
43	42	38	CINA if Incarcerated	AS 47.10.080(o)
44	43	none	Visitation	AS 47.10.080
45	44	39	Best Interests of the Child	AS 47.10.082
46	45			
47	46	40	Reasonable Efforts /Termination	AS 47.10
48	47	41	Confidential \ Privileged Information	AS 47.10.092(a)
49	48	42	Information Disclosure	AS 47.10.093(b)
50	49	43		AS 47.10.141(f)
51	50	none	Habitually Absent	AS 47.10.141(g)
52	51	45	Emergency Custody	AS 47.10.142(a)
53	52	46	Custody of Child Runaway	AS 47.10.142(c)
54	53	none	Plan Review	AS 47.10.142(h)
55	54	53	Duty of Care	AS 47.10.960
56	55	47	Definition- Care	AS 47.10.990(1)
57	56	none	Definition-CINA	AS 47.10.990(2)
58	57	48	Definitions	AS 47.10.990
59	58	49	Information Disclosure	AS 47.12.310(b)
60	59	none	Foster Home Arrangements	AS 47.14.100(a)
61	60	none	Foster Care-DFYS	AS 47.14.100(d)
62	61	none	Foster Care-Relatives	AS 47.14.100(e)
63	62	none	Out of Home Care	AS 47.14.100
64	63	none	Review Panel-Review	AS 47.14.240(d)
65	64	none	Review Panel-Court	AS 47.14.240(h)
66	65	52	Multidisciplinary Child Protection Team	AS 47.14.300
67	66	54	Definition-CINA	AS 47.14.990(2)
68	67	55	Report of Harm	AS 47.17.020(a)
69	68	none	Reporting Requirements	AS 47.17.020
70	69	none		AS 47.17.030(d)
deleted	70	none	Protective Injunctions	AS 47.17.030
71	71	56	Investigation	AS 47.17.033
72	72	none	DV Appropriate Steps	AS 47.17.035(b)

<b>CSHB 375 "L" (HJUD)</b>	<b>CSHB 375 "H" (HHES)</b>	<b>HB 375 "A" (Gov)</b>	<b>Subject</b>	<b>Statutes</b>
73	73	57	<b>Maltreatment</b>	AS 47.17.290-8
74	74	58	<b>Application Requirements</b>	AS 47.35.017(b)
75	75	59	<b>Foster Care Placement</b>	AS 47.35.022
76	76	60	<b>Placement \ Emergency</b>	AS 47.35.023(b)
77	77	61	<b>Notification</b>	AS 47.35.047(b)
78	78	62	<b>Definitions</b>	AS 47.35.900
79	79	63	<b>Repealed Statutes</b>	AS 47.10.080(k) AS 47.10.990(7)
80-83	80-83	64-80	<b>Court Rule Amendments Effective Date</b>	various

**ALASKA PRESIDENT & STATE COORDINATOR  
317 Maple  
Kodiak, Alaska 99615  
(907) 486-2290**

**April 27, 1998**

**The Honorable Gary Wilken  
Senate Health, Education, and Social Services Committee  
Juneau, Alaska 99801-1182**

**Dear Chairman Wilken:**

I am writing this letter concerning the Senate HESS committee's hearing tomorrow on SB272. A week ago, the department testified on SB272 in a listening only hearing. I understand that CSHB375 (JUD) has been rolled-over into SB272. This roll-over action in effect has made CSHB375 into SB272.

The House HESS and Judiciary committees have allowed over 15 hours of testimony and the Senate HESS has allowed 2 hours of testimony by proponents of HB375/CSHB375 – the Department of Law, DFYS, other non-agency state employees, and a few foster parents who were paid by the department/agency for their testimony. The House committee chairs have limited testimony to less than 2 hours by the opponents of HB375/CSHB375.

SB272/CSHB375 have many opponents to this bill. We have had no less than 6-10 ports available during these hearings with numerous persons waiting to testify against these bills. I believe that it is time for the opponents of this bill to be given a fair public hearing, especially since the state employees have misrepresented the bill and its compliance with the federal laws.

**Sincerely,**

**Diana L. Buffington  
President and State Coordinator  
Children's Rights Council of Alaska**

HELPING PARENTS HELP KIDS



# Children's Rights Council



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"Dear Abby"  
(Abigail Van Furber)  
Los Angeles, California

Honorable Fred Thompson  
U.S. Senator, Tennessee

Honorable Bob Graham  
U.S. Senator, Florida

Honorable Philby Stahonow  
U.S. House of Representatives, Michigan

Honorable Sherman Dornblum  
U.S. House of Representatives, New York

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**ALASKA PRESIDENT & STATE COORDINATOR**  
317 Maple  
Kodiak, Alaska 99615  
(907) 486-2290

April 27, 1998

**The Honorable Mark Hanley, Co-Chairman**  
**The Honorable Gene Therriault, Co-Chairman**  
**House Finance Committee**  
**Juneau, Alaska 99801-1182**

Dear Chairmen Hanley and Therriault:

Attached is my lengthy testimony on CSHB375. The opponents of this bill were given such short periods of testimony in other committees. I felt it necessary to thoroughly discuss CRC's objections to CSHB375 in this manner. I was hoping to have the opportunity to discuss this with you per a telephone conference.

Please have your committee staff copy and distribute this testimony. I am faxing an additional 12 pages concerning the federal CAPTA amendments to supplement this testimony. I would appreciate having 10-15 minutes to testify against CSHB375 to bring out some of the problems that the HESS and Judiciary committees did not allow to be aired.

Please note the CRC letterhead, and take time to read the names of our national officers and numerous members of our advisory panel. Thank you for your assistance and cooperation in this matter. I will be available for questions that the committee may have.

Sincerely,

**President and State Coordinator**  
**The Children's Rights Council of Alaska**  
**Chairman, The Alaska Task Force on Family Law Reform 1995-1997**

A NON-PROFIT, TAX EXEMPT ORGANIZATION STRENGTHENING FAMILIES THROUGH EDUCATION AND ASSISTING CHILDREN OF SEPARATION AND DIVORCE

Elizabeth Kibler-Ross, M.D.  
Author, Psychiatric  
Head Water, Virginia

Vicki Lantry  
Author, Columnist  
Deephaven, Minnesota

James Levine  
Families and Work Institute  
New York, New York

John Henry, Ph.D., Professor of  
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Johns Hopkins University and Howard  
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HELPING PARENTS HELP KIDS



# CHILDREN'S RIGHTS COUNCIL



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# TESTIMONY on CSHB375

Version (I-GH2009)\H

(Monday, April 20, 1998)

**The Children's Rights Council of Alaska adamantly believes THE BEST PARENT IS BOTH PARENTS.**

**A child has the right to frequent, continuing, and meaningful relationships with both their parents and their extended family. A child also has a right to adequate food, shelter, clothing, medical care, and education. CRC agrees that our children have a right to protection from sexual, physical, or emotional harm.**

**CRC does not support this version of CSHB375 or the previous 4-5 versions. CSHB375 CANNOT BE FIXED!!!! This bill in its current form, with its extensive amendments needs to pass both houses by a two-thirds majority or it fails: Our recommendation, let CSHB375 die in the Judiciary Committee. Throw CSHB375 in a drawer and leave it there. **Adopt HB324 instead!** DFYS could wait on recommendations from a Legislative Commission. A legislator or the governor could provide a simpler version of CSHB375 concerning the Adoption and Safe Family Act of 1997 (ASFA) or the Child Prevention and Treatment Act of 1996 (CAPTA).**

A NON-PROFIT, TAX EXEMPT ORGANIZATION STRENGTHENING FAMILIES THROUGH EDUCATION AND ASSISTING CHILDREN OF SEPARATION AND DIVORCE

Elizabeth Kahler-Ross, M.D.  
Author, Psychiatrist  
Hidalgo Waters, Virginia

Vicki Landry  
Author, Columnist  
Duplexton, Minnesota

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Parental and Wife Inmate  
New York, New York

John Murray, Ph.D., Professor of  
Medical Psychology and Pediatrics  
Johns Hopkins University and New  
Withmore, Maryland

When making child protection law, the KISS principle ("Keep It Simple, Sam") and common sense are two of the best tools you have to determine how to effectively legislate. The laws you make today, must be consistent and conform to federal laws and regulations. Also keep in mind, CSHB375, may one day affect your life, when you, as a parent or a grandparent, find yourself under investigation by DFYS.

Remember laws are open to interpretation by administrators, lawyers and judges. DFYS and their employees do not consider the legislature's or even your personal intent of any law in the many daily decisions that DFYS makes. Most agency clients will use their own common sense and not understand nor care how your intent has become so misdirected. Ask your staff about some of the horror stories that agency clients relate to them.

Department of Health and Human Services Secretary, Donna Shalala, testified in 1986 "that close to one million children a year are abused or neglected nation-wide. While these numbers may be staggering, we should also be concerned by the nearly 2 million false and unsubstantiated reports of child abuse and neglect that are filed wrongfully, and in some cases maliciously." David Lieberman, Executive Director of the Child Welfare League of America admits that 62% of allegations of child abuse and neglect are false. CPS agencies across the United States have estimates of false and unwarranted allegations of up to 80%.

The high level of false allegations lead to the more severe cases going uninvestigated, underinvestigated, or slip through the cracks entirely. Most false allegations are made by the residential parent who has recently separated or divorced to gain control in custody settlements. Out of loyalty, family and friends of the residential parent also make false allegations. Other intra-family and neighborhood feuding are also causes for wrongful or malicious allegations. CSHB375 will not fix one of these problems.

HB375 and all CSHB375 versions are the most complicated, extensive and convoluted bills under the auspices of "child protection" I have seen in five years. This bill, with all the revisions, attempts to change CINA, criminal, child support, marriage and divorce, teacher certification, foster care and child care licensing statutes and the amending of Alaska Rules of Appellate Procedures and Alaska Child in Need of Aid Rules.

CSHB375 has been misrepresented to the house committees by Susan Webbiker and Karen Perdue, testifying that CSHB375 will conform to CAPTA and ASFA. Their misrepresentations of this bill are what makes this bill so frightening. **THIS BILL CANNOT BE FIXED!!!** Amendments and changes should not be done to gather more approval for a "bad" bill. Amendments and changes should be done to make a "good" bill better. HB375 was a bad bill. The final version of CSHB375 is still a "bad" bill.

CINA statutes, regulations, and department policies also need to conform to a legislatively set "standard of duty". CSHB375 does not set a "standard of duty", and very loosely conforms to the CAPTA and AFSA. CAPTA requires states to set a "standard of duty" through the development of a state plan. The department has not been forth coming with CRC's request for the state plan filed with DFHS in 1997. Therefore, we must remain silent to what we understand to be included in the plan.

CAPTA requires no less than three citizen panels to act as departmental oversight "to provide new opportunities for citizens to play an integral role in ensuring that States are meeting their goal of protecting children from abuse and neglect. (Congressional Record - House, pp H11148-9, September 25, 1996)." The teams DFYS has designed are not departmental oversight teams. The state child fatality team and multidisciplinary teams designed in CSHB375 are inter-agency investigative teams under direct supervision and direction of the department. The two "secretive" teams do not meet CAPTA or ASFA criteria.

No action on this act is mandated by the federal acts, unless DFYS wants to apply for additional "federal bounty" provided in CAPTA, ASFA or the Interstate Compact on Adoption and Medical Assistance. The CAPTA grant is worth \$200,000 each year to Alaska, for the next five years. The States have an interim planning period to implement the CAPTA changes to qualify for the CAPTA grants. The governor's certifications that accompanied the State plan submitted in FY97 under CAPTA, included an assurance that the citizen review panels were already in place or would be in place no later than June 30, 1999.

This bill is not a "pure" child protection bill. CSHB375 creates a whole new inter-departmental bureaucracy. A great deal of this bill designs two "secretive" investigatory teams

This bill is also clouded with too many emotional issues. There are too many "cooks in the kitchen" so to speak. You have had the Department of Law and the Attorney General's office, DFYS, DHSS, CSED, Council on Domestic Violence and Sexual Abuse, Guardians ad Litem, caseworkers, and foster/adoptive parents all fighting for a piece of the pie. Sections 29-57 will also need a two-thirds majority of each house to even become effective. So, the legislature has an uphill battle with this massive bill.

CRC also is concerned that the agency's continued financial interest in CSHB375 should be called into question. CRC felt block grants developed in the Welfare Reform Act of 1996 would reduce the department's financial interest on children under its supervision or custody.

The Adoption and Safe Families Act of 1997 through CSHB375 sets a "federal bounty" on the heads of our children. Every child the state can remove from their family and place for adoption, the state will be paid \$4000 to \$6000 along with the annual federal block grants paid under the Welfare Reform Act 1996. The "federal bounty" will be paid for all permanent medical placements and adoptions within or outside the state under the Interstate Compact on Adoption and Medical Assistance. I have yet to hear DFYS or the members of any legislative committee address this portion of the federal law or the proposed state CINA revisions.

The state has implied that they will not attempt to seek this "federal bounty". It will be the first time in the history of the department that it fails to attempt to use children entrusted in their care to the department's financial interest. Application by the state is not required to qualify the state for the "federal bounty".

The recently completed audit of DFYS did a good job up to a certain point. The audit touched on the report of harm (ROH) prioritization, the screening and investigative process, and workload adjustment. The 1997 reports of harm in Alaska are staggering 15,547 statewide. There were 10,529 ROHs assigned for investigation, leaving 3,740 workload adjusted not assigned for investigation. 1,278 ROHs remain unaccounted for in the audit. CRC assumes that 1,278 ROHs slipped through the cracks. This is unacceptable.

What the report does not tell the legislature, except on page twelve, how many 1997 cases were confirmed with child in home, confirmed with child removed, unconfirmed/closed, unconfirmed/ongoing, and invalid. If page twelve is any indication of the dispensation of the DFYS caseload, then 90% of DFYS cases are either unconfirmed or invalid. Page twelve sites 10 samples of ROHs. Out of ten cases, 1 child removal occurred. Four (4) cases were unconfirmed and closed. Three (3) cases were unconfirmed and we assume assigned for ongoing investigation, since there was no notation of "closed". One (1) case was invalid.

I have never heard one legislator ask for this information breakdown. Odds are that if asked, DFYS will claim that due to lack of staff and delays in entering case information into their computer, accurate information is unavailable. This is inexcusable. However, their estimates may give a somewhat supportive view that more caseworkers and funds are needed to make improvements at the agency. CSHB375 will not reduce one of these statistics. CSHB375 will actually increase every one of the statistics mentioned in the audit. Then the department will need even more money and staff to battle the increases the department will be causing themselves through CSHB375.

DFYS's only public response -- the department always needs more employees and more money to throw at the department's problems. DFYS employees say the department suffers mainly from incompetent administrators and supervisors. The department is top-heavy in management levels. Caseworkers complain to CRC and others -- the agency has irregular and unspecified administrative policies, unspecified ROH priorities and ineffective protocols and no ongoing training. The audit confirms these scenarios in their March, 1998 report. CSHB375 will not fix one of these problems.

The recent audit also reports DFYS staff is untrained, inexperienced and many front line-caseworkers are without degrees in social work. A department in such disarray strains the staff and develops high attrition. Ever changing parental plans along with non-existent, poor, infrequent, or limited family support services result in the parents' inability to respond and satisfy DFYS "standard of duty" requests, resulting in poor client relationships. The list of staff and client complaints continues to get longer. CSHB375 will not fix one of these problems.

Pages of recommendations were made through the Alaska Senate Task Force on Family Law Reform 1990 - 1991, the Alaska Task Force on Family Law Reform 1995 - 1997, the Legislative Audit 1998, various and numerous state-sponsored ombud, committee, commission, conference, summit and seminar reports. Constituent complaints go unheeded. Along with all the recommendations and reports outside the department, there are numerous annual federal/state changes in law and regulatory fiat. For more than eight years the department has fought the fight, and still, remains aloof, distant and entrenched. DFYS sees no reversal in Alaska numbers of ROHs nor improvement in the way DFYS does business.

According to most clients, Alaska DFYS's whole approach to allegations makes parents feel incompetent and like criminals. Parents must prove their innocence. Most parents bend over back to get DFYS out of their hair, only to have DFYS change the parenting plan in mid-stream or add other allegations to maintain DFYS control.

However, any parent accused of criminal behavior, which would include, sexual assault or molestation, physical harm, torture or death, domestic violence, or other emotional harm also have rights. Accused parents have the right to a quick, but thorough investigation, a speedy hearing, and exoneration if the allegations are found to be unsubstantiated, invalid or even false. CSHB375 has no protection of a parent's civil rights, due process, constitutional guarantees of protection from unjust or malicious prosecution, fair adjudication, or exoneration when allegations are found to be invalid or unconfirmed.

Exoneration of allegations does not occur in DFYS. Wrongful or malicious allegations continue to mount. In time, to DFYS, this proves a prima facie case against the alleged perpetrator. Parents and families who perpetuate wrongful or malicious allegations know of this loophole, because there are no penalties for false reporting, now required under CAPTA. DFYS purports that to file charges against persons accused of false reporting will reduce the number of reports of harm out of fear of prosecution for false allegations. States who already adopted the mandated CAPTA false allegation penalty provisions are showing decreases in unsubstantiated and invalid allegations.

CSHB375 is part of Governor Knowles' "Smart Start" Program. The governor is spending thousands of taxpayer dollars in brochure/pamphlet publication, advertising, and state-wide swings in state planes to promote his so-called "Smart Start Program". Yet, ten departmental front-line caseworker positions went unfilled in 1997. 20-page booklets, "Alaska's Children of a Hidden War" are being passed out to the legislature, at public events, Knowles campaign-oriented events, as well through other state government offices. Is the governor or the department using state money wisely? What about the unethical or illegal misuse of state funds to promote a campaign for re-election or "Smart Start" programs?

Where was Governor Knowles during the last four years, when the problems at DHSS and DFYS were mounting? Until it came to re-election time six months ago, the governor and the agency administrators were not on the scene. Now comes the "Smart Start" program -- protecting children and improving "out of control" agencies -- makes for good campaign re-election sound bites.

Children, like the little boy who was killed in Fairbanks, the Anchorage girl who had sixteen ROHs, or the Anchorage girl killed by her foster mother, were on Governor Knowles' and Commissioner Perdue's watch. How many other children slipped through the cracks? According to the commissioner, 3,000 children had six or more ROH in the last two years. Where was the Department of Law's Susan Webblker, DHSS Commissioner Karen Perdue and the current director of DFYS when these 18,000 ROHs occurred?

Most of the proponents are state employees, or foster/adoptive parents who were called on by the agency or the governor's office to testify. Most of the proponents are paid by the state to care for children in state custody. Proponents are paid non-departmental state employees, state contracted employees or recipients of state grants, departmental front-line caseworkers and supervisors to sit in hearings, 3 hours or more, to testify for this bill. How many ROHs or other state business were put on hold for their testimony?

Some foster parents, foster children, and adoptive parents were paid for their flights to and hotels in Juneau. Other teleconferencing foster parents had their baby-sitters paid, for their testimony as proponents of this bill.

Some foster parents have had threats of retaliation by DFYS for their opposition to this bill. Foster parent licensing would be pulled. Foster children moved or placements not made if the foster parents sign petitions or testify their opposition to this bill. Adopted parents would suffer delays or bad home studies if they opposed this bill. Opponents still outnumbered the proponents 4 to 1.

With every bill the department produces and the legislative committee hearing appearances of the department staff and their legal advisors, the department promises "whatever the bill they support or propose will fix the agency, bring DFYS into federal compliance and child protection programs will be enhanced". CSHB 375 does not conform to federal law and will not fix one problem at the department. If this committee allows the department to remain the same, the legislature can expect eight more years of the department fighting the fight. Alaska will see more increases in the number of ROHs and no improvement in the way DHSS or DFYS does business.

In the end, with CSHB375, neither the department nor the agency will be close to being fixed. The families the department deals with will be more at risk from the department. Alaska families will be in the greatest danger of having more intrusions by the department, children removed, parental rights terminated, families and lives destroyed -- all "erring" in the name of "child protection".

## Sectional Summary of CSHB375

CRC has many objections to this bill. Our objections are to the point. But to make our point, it will be necessary to cover CSHB375 section by section.

**SECTION 1 -- This section is not cohesive with the "legislative intent" of child protection and deletion of this entire section is appropriate. This section is the desire of DHSS and DFYS and have no basis in any federal law or regulation.**

Our state was constitutionally designed with separation of powers for sound reasons. Do not overturn judicial decisions for DFYS. The legislature has the only power to change the laws to give greater specificity and legislative intent for the judicial branch to use in their interpretive duties in the future.

CRC asserts that if Department of Law and DFYS through the legislature overturn those court decisions the agency will, at a great expense to the state and the parents/children involved, refile these cases in court to satisfy a whim or to justify the agency's actions after the fact. DFYS is notorious for these types of courtroom appearances just to retaliate against a parent just to prove their point after unfavorable adjudications, or in a sad attempt to prove publicly they are interested in "child protection".

Parts of CSHB375 may, after being amended, address the department's alleged loopholes in Section 1(b) (2) (A-C). DFYS and the Department of Law seem to feel it is within their power as part of the executive branch to force the legislative branch to supersede and overturn the judicial branch's authority to interpret law.

This section of the bill will greatly affect low income families, particularly native and legal aliens. It will also single out families with children under the age of six. CSHB375 deals with the willingness, but inability to provide essential care for the child. We have to consider that "essential care" is a very broad definition. If a parent is poor and can only provide two meals a day, second-hand clothing, and little or no recreational funds are they a "bad" parent?

The "essential" basics also include love, caring, appropriate disciplines, school attendance to provide a safe and healthy environment. If a parent cannot provide the DFYS unwritten and operationally vague "standards of duty" for each child do we remove the child or establish an ongoing case in hopes that one day DFYS may permanently remove the child and terminate parental rights because it is in the financial interest of DFYS? Do we remove the child if a court feels the parent is willing but "unable", financially or through a physical disability, to provide a DFYS definition of "essential care"?

How infinite of a list is DFYS going to compile under administrative code for "emotional" harm? "Emotional" harm will add another broad definition and add to the number of ROHs.

DFYS also considers medical care a part of "essential care". This would include dealing with parent whose child suffers severe physical, mental and medical disabilities. Do we remove children from a home because the parents lack sufficient medical insurance or do not qualify for Medicaid assistance or social security payments for these disabilities. What happens when the parents may provide their definition of basic medical services, but not sufficient to satisfy DFYS's "essential care"?

Where will the state draw the line on "essential care" -- the amounts of money or time a parent spends on each child, the daycare/school the child attends, the doctor the child sees, the extra-curricular family activities. Should DFYS interfere in parental decisions -- church, friends, the television shows/movies watched, the grades a child makes in school. How does DFYS determine "essential care" without a "standard of duty"?

If a parent is incarcerated and arranges with the willing, able, love and care of the other parent, family members or friends to adequately care for their children while they are incarcerated, what right does the state have to interfere with parental responsibility to make such an arrangement? Do we determine what criminal laws a parent can break before they are "bad" parents? Do we terminate the rights of a parent before or after the completion of the appellate process of an incarcerated parent? Do we terminate the rights of a parent based on the sentence, or possible early releases for parole and good behavior, even when the parent makes a responsible decision to leave the child in the care of others?

What if the other parent, family or friends provide frequent, continuing and meaningful contact with the parent while incarcerated? Do we terminate a parent's rights and place the child for adoption in another home, removing the child from a loving and stable environment just because the non-custodial parent is incarcerated and may one day be released or reoffend?

The Alaska courts seem to want the CINA laws to more be specific. The court decisions referred to in this section are asking specifically for directions in law and intent from the legislature.

In CSHB375 DFYS is attempting to place another "federal bounty" on our children's heads. The more parental rights the state can terminate, the more children are available for adoption. The federal government will pay \$4000 to \$6000 per permanent placement or adoption that is in Alaska or other states who participate in the Interstate Compact on Adoption and Medical Assistance program.

The federal government also gives an income tax credit to those families who adopt DFYS children. DFYS will still have a financial interest to remove children under broad statutory definitions, not necessarily the best interests of the child. Parents may be inclined to adopt children because of a "federal bounty". Is a department's or parent's financial interest in the best interest of the child? Never!

If the incarcerated parent is ordered to pay child support before incarceration, by terminating the parental rights, the non-custodial parent would be still be required to continue to pay any arrearages for child support under the "Bradley Amendment" or public assistance owed the custodial parent or the state. CSED, DHSS and DFYS would to gain "federal bounty" money three ways.

What wonderful little cash cows the Congress and Alaska's legislature has made out of our children!!!

**SECTION 2 – This section is not cohesive with the "legislative intent" of child protection and deletion of this entire section is appropriate. This Section should be independent of CSHB375. This section is the desires of DHSS and DFYS and have no basis in any federal law or regulation.**

Currently most native for profit or non-profit corporations have a difficult time making agency or court ordered child support payments to CSED. The corporations regularly tell the obligees that the native dividend checks have inadvertently been mailed to the obligor. Most children of natives receive AFDC/ATAP, therefore, the Child Support Enforcement Division has garnishment orders in place and notified the native obligors and native corporations.

Now you want to require native corporations or Permanent Fund officials to establish individual interest bearing savings accounts for CINA in state custody. This section will add an undue burden to the native corporations and the Permanent Fund staff. Additional state employees in DFYS, the Permanent Fund, and Dept. of Revenue will be needed to track and insure the safety of the savings accounts. This section will add a substantial fiscal note to the state's budget.

**SECTIONS 3 - 14, 18 & 19 – These sections are not cohesive with the "legislative intent" of child protection and deletion of these sections is appropriate. These sections should be independent of CSHB375. These sections are the desires of DHSS and DFYS and have no basis in any federal law or regulation.**

All of these sections deal with criminal statutes that could be dealt with under one separate bill. In fact, these sections are in separate bills, SB218, SB282, SB323, and HB333 in one form or another. The sentencing measures in these statutes are still far too lenient for defendants guilty of harming or killing our children, intentionally or negligently. All classes of felonies and misdemeanors should be upgraded, and sentencing guidelines should be severe and unwaiverable.

The state of Alaska should have a zero tolerance in the death of a child 16 years or younger. Deaths of children are egregious, unwanted, and inexcusable for any reason. The legislature needs to develop a new criminal statute section to deal solely with crimes against children. Some states already have begun to make these criminal statute changes.

**Life without parole and the death penalty should be mandatory in certain cases of first degree murder.**

**No sentence of a first felony conviction involving the death of a child, should be less than 30 years in prison. The statutes must also specify that defendants serve 3/4 of the prison term before paroles are possible. Defendants serve their time with no time off for good behavior. The more egregious or vicious a death the child may suffer can presumptively result in higher penalties. The defendant should reimburse the family for funeral arrangements, and long-term family counseling.**

**No felony that results in the physical or sexual harm of a child should receive a suspended term of imprisonment. The defendant shall serve 3/4 of the sentence before eligible for parole. No defendant will receive time off for good behavior. The defendant should reimburse the family for all medical expenses and long-term family counseling.**

**Today, parental kidnapping and filings of false allegations of child abuse or neglect and domestic violence is dramatically on the rise. These false allegations are called the Medea complex. Medea was the Greek goddess who sought revenge on her husband who rejected her for a younger woman. Carried away by rage, Medea murdered her children.**

**Today the custodial parent's rage is usually satisfied by keeping a child from having contact with the other parent. Alaska has over 10,000 children who experience various degrees of custodial interference and parental kidnapping by their custodial parent.**

**Alaska criminal statutes should also include parental kidnapping and custodial interference clauses against the express agency/court orders for the purpose of hindering the custodial or visitation periods within or outside the state; or interstate flight to avoid frequent and continuing contact with the other parent or judicial hearings for any reason. Parental kidnapping should be a class B felony for any reason.**

**False allegations of child abuse or neglect should begin as a class C felony for any reason. Custodial interference should be a misdemeanor for the first three convictions and a felony for the fourth. Severe penalty and fines should also accompany the convictions.**

**Many custodial parents allege child abuse or neglect and domestic violence to seek wrongful or malicious charges just to justify their custodial interference or parental kidnapping. Sophisticated underground networks have sprung up across the nation to assist these parents to violate court/agency orders, to break federal/state laws (falsifying I.D., employment law, kidnapping) and keep their children hidden from or preventing any contact with the other parent**

**No book, movie, or miniseries, that directly or indirectly implies facts of a specific case that resulted in the death of a child may be negotiated without approval of the victim/s family and a three-judge panel. This would include writers and reporters covering the case, public or private investigators, attorneys, juries, or judges involved directly or indirectly with a specific case. Neither the convicted defendant of murder nor manslaughter, nor the family of the defendant shall negotiate any agreement. All proceeds are payable to the victim/s families in the event the judicial panel agrees to publication/production. No one shall benefit from the death of a child. This one statute alone may reduce the number of glorified and tragic deaths of children. This may also reduce copy-cat or other child murders.**

**SECTIONS 15 - 17. 63 - 77 -- These sections are not cohesive with the "legislative intent" of child protection and deletion of these sections is appropriate. These sections need to be independent of this bill. These sections are the desires of DHSS AND DFYS and have been misrepresented in their basis in federal law and regulation. These sections are a part of the CAPTA amendments, but can be delayed until June 30, 1999. The citizen review panels are designed for oversight of the department, not volunteer workers for the agency. If this section remains in the bill unaltered, CRC will file a federal non-compliance complaint with Carol Williams, DHHS Commissioner, Administration for Children, Youth and Families, Washington, D.C.**

CRC believes a child's physical safety and emotional stability is paramount. A DFYS determination will establish substantial risk to the child. The child will either remain in the home or be removed from the home. Then the department's paramount interest should turn to the civil rights, due process, and constitutional protections of the parent's rights when investigating the allegations. This is the best way to "err" on the side of the child and protect the best interests of the child.

The burden of proof should always be on the department. "Clear and convincing" evidence should be the standard at each stage of investigations and decisions both by the department and court. Through discovery or subpoena, all records, information, caseworker file notes, expert testimony that assisted an employee of the department and, or an inter-agency team member under the direct administration of the department to make a determination, conclusion, recommendation, discussion, or thought process should be admissible in a civil or criminal proceeding.

CAPTA requires no less than three citizen panels to act as departmental oversight "to provide new opportunities for citizens to play an integral role in ensuring that States are meeting their goal of protecting children from abuse and neglect. (Congressional Record - House, pp. H11148-9, September 25, 1996)." Public annual reports are mandated to be filed with the state legislature, and DHHS in Washington. DFYS has failed to adopt such a panel, and is out of compliance with federal mandates. CSHB375 will in no way comply with CAPTA section 106 [42 U.S.C. 5106a].

According to CAPTA Section 106 (c)(4)(A) verbatim, "each (citizen review) panel established ... shall, by examining the policies and procedures of state and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities with the state plan, CPS standards set forth in this section, any other criteria that the panel considers important to ensure the protection of children." Report language clarifies that Congressional intent was to direct states to provide the review panels with reports and information the panel determines necessary and support assistance to carry out these functions (Congressional Record -- House pp. H11149 September 25, 1996).

Properly established, the citizen review panels have the capacity to promote creative problem-solving with involvement of community members who often represent a variety of disciplines. It is recommended that the panel be composed of volunteer members who are broadly representative of the community, and include a balance of members with expertise in the prevention and treatment of child abuse and neglect, who are familiar with the intricacies of the CPS system.

The department fears the federally mandated public citizen's review panels designed in CAPTA. CAPTA and ASFA citizen's review panels are self-directing, with support services, and relevant information and records provided by the department. CAPTA panels do not require meetings closed to the public, except for the time the panel decides to review case-specific information. The public, and especially department clients, should have a forum in which public/client complaints and concerns can be investigated. Under CAPTA, the department will no longer investigate from within nor audit themselves.

CAPTA PL 104-235 is written in English. Surely, an attorney can read and interpret the Congressional intent of CAPTA. However, it seems Ms. Webbiker and Ms. Perdue could not understand the public law language. They could certainly understand the simple Program Instruction sent to all 50 states -- "To: The State Office, Agency, or Organization by the Governor to Apply for a State Child Abuse and Neglect Grant". The citizen review panels are CAPTA mandated and are sorely needed in Alaska's DFYS system. CRC is providing a copy of the 12 page fax from Kathy Admire, CAPTA coordinator, ACF, Region Ten, Seattle, Washington. The fax includes the 6-pages of Program Instruction, that basically defines Congressional and DHHS intent for CAPTA implementation.

Specific multidisciplinary and state child fatality teams are mentioned and described in CAPTA and under ASFA, as inter-agency teams to enhance DFYS investigations. The state child fatality team and multidisciplinary teams designed in CSHB375 are inter-agency investigative teams under direct supervision and direction of the department and made up of "volunteer" caseworkers. Alaska already has a state child fatality team, its called the grand jury. Proposal of these teams is redundant and a duplication of services and functions of many of the suggested members of these teams. The two "secretive" teams do not meet CAPTA or ASFA criteria.

CRC is most concerned with the fact that the state child fatality and multidisciplinary teams should meet in secret, to protect so called "confidentiality". The "secretive" teams that the department refers to in CSHB375 are not citizen review panels. The department teams in CSHB375 are "volunteer" caseworkers as defined in section 15 -17 and 63 - 66. The suggested members of both teams in CSHB375 consist solely of mandated reporters of harm. This causes an imbalance of broad representation from the community.

Those "secretive" investigative teams are mainly made up of state or municipal employees, or the employees of state or municipal contractors or to recipients of department grants. The public employee unions will never tolerate these types of "volunteer" caseworkers. This also would develop a financial conflict of interest between many team members, the department, and the courts.

Any DFYS "secretive" team should collect data, analyze and interpret information. The team should develop state and local databases to store the information to identify trends, patterns, risk factors, and fiscal notes. The teams should develop model agency protocols and operating procedures, legislation, and make periodic reports to the legislature and the public, without divulging confidential information. This is all mandated by CAPTA. CRC believes this defines more of a citizen's review panel than a inter-agency team or grand jury.

No state employee or state funded "secretive" investigatory teams should be given immunity in any form or for any reason. We do not give police officers, state troopers, or any other federal law enforcement officers immunity from their decisions or behavior. Selective testimony through acts of omission or inclusion, retaliation, gender-based bias, perjury by a department employee or team member should not be covered under immunity or indemnification.

The department would have you think that these teams will not cost the state any funds. These sections will only add unfunded mandates to communities to pay overtime to personnel involved with these DFYS "secretive" teams as described in AS 47.10.14(b) (1-10). It is unfair for the state to pass down unfunded mandates to local communities, who are already operating with less state funds than three years ago. Most of you, the state legislators, hate when the federal government passes unfunded mandates to the states. Why then should you pass unfunded mandates to the local communities?

Most of the persons listed as DFYS suggested members of these "secretive" teams are public or municipal employees who operate under public employee union or municipal union/employee contracts. This means the state, municipalities, or contractors must pay for employee time on such state-funded advisory teams as part of their normal duties. I know of no police officer, mental health worker, educator, district attorney who will forego their union or municipality mandated overtime.

These untrained CSHB375 multidisciplinary and state child fatality teams, are headed by a department employee and will be used as "volunteer" investigative caseworkers that do the investigations and then make the decisions for front-line caseworkers and their supervisors to reduce caseloads. The assigned DFYS caseworker will take the team's report and offer it as first-hand investigative testimony in CINA cases. The caseworker will decide how the report and the evidence therein, is introduced into hearings.

What is the department trying to hide? If CSHB375 passes, CRC's legal experts believe that the parent or guardian's civil rights to due process are being violated. Members of this "secretive" team are not compelled or allowed to testify, and the records and information that form the basis of the team report are not admissible into court. The reports of a "secretive" team, which are available to the public, but not admissible in a civil or criminal proceeding does not make sense. The department would have you believe that in their employment capacity as an "officer of the court" or mandated reporter, the team member could testify at a hearing.

This section in CSHB375 would not allow the team member's testimony through discovery or subpoena for any reason, especially if the team member was an "officer of the court" or mandated reporter. The department would have you believe that in their employment capacity as an "officer of the court" or mandated reporter, the team member could testify at a hearing. An "officer of the court" or mandated reporter's expert testimony based on exculpatory information, may inadvertently include or exclude, through records or information gathered through team membership and may taint hearing evidence that would violate the accused parent's civil rights. The court, prosecuting and defending counsel, and the defendant should also be made aware that an "officer of the court" or mandated reporter serves on such a "secretive" investigatory team. It is difficult to provide unbiased evidence based on team reports by the testimony of a department or team members that may have a financial or professional interest on the court outcome.

However, an employee of the department may testify in a criminal or civil proceeding concerning the report by a team that forms the basis of the employee's testimony. This does not guarantee the employee will produce the entire report. The department employee may use selected, biased parts of the report as testimony. This section is not specific on this matter. Therefore, by acts of omission, the employee may include or exclude team report data to pre-dispose the case to favor the department's position, or DFYS's desired outcome. Through tainted evidence based on exculpatory information, selective acts of omission, agency retaliation and obstruction of justice will more than likely occur.

Members of the "secretive" team should be compelled to testify in a civil or criminal proceeding. This should particularly cover "secretive" team investigations that had intra-member conflicts with departmental actions or employees, other team members, parts of the records or information reviewed, other evidence or the report as a whole.

Failure to protect parental rights by a "secretive" team or their reports, may result in a DFYS client's civil suit and appeals against the department and that could become an embarrassment to the state and a substantial financial liability nightmare. If the state loses a civil rights case of this kind, or if the state lost a class action suit on obstruction of justice charges or worse, it could be financially devastating to the state.

The legislature should not tolerate poor administration of DHSS and DFYS any longer. You cannot fit even the best pilot programs or laws into departments as bad as Alaska DHSS and DFYS. It will only serve to further erode the department and its ability to effectively protect the children in need of aid. Further department erosion is not in the best interests of Alaska's children.

The Alaska Division of Legislative Audit has recently made its report, March 26, 1998. Basically the audit reported that there were numerous problems at the agency. The audit said with a more and better trained staff, DFYS may reduce the current caseloads. The audit only addressed two central aspects - how the agency utilized personnel in FY97, and how well the agency is doing in responding to reports of abuse and neglect of children, besides supervising children in state custody. Other aspects of the agency went unaddressed as usual.

DFYS needs to improve what it currently has, before introducing and making major changes. CRC believes that it will take two years, minimum, for the agency, under the current statutes, with more front-line social workers to begin to reduce the caseloads. The legislature should demand that performance-specific changes be instituted immediately. DFYS then needs to set goals and timelines for the improvements and forward them to the legislature.

CRC believes that Commissioner Karen Perdue, is underestimating the department's ability to force DFYS to make major administrative changes, if the legislature provides more funding for additional staff. The department will not be adequately staffed or trained within the next two years. The agency must improve the administrative and supervisory techniques, the collection and analysis of ROH statistics, and front-line caseworker response to reports of harm. The state must remove inconsistent and contradictory statutes, bringing DFYS into federal compliance and mandated state time lines.. It is also difficult to mandate by statute, additional procedures or protocols, into an agency that considers itself untrained, understaffed and underfunded.

Until a more updated, accurate and relevant workload measurement model and a more specific priority system are developed, no amount of staff or funds will work to make a better or more responsive system. It will take two years minimum to show an improved track record in accurate and timely database collection and analysis of child protection figures to identify trends, patterns and risk factors.

**SECTIONS 21 - 25 -- These sections are not cohesive with the "legislative intent" of child protection and deletion of these sections is appropriate. These sections need to be independent of this bill or combined into HB 307. Section 3. These sections are the desires of DHSS AND DFYS and have no basis in any federal law or regulation.**

Custody issues involving a marriage or a relationship similar to a marriage really have no place in a "child protection" bill. CRC fully agrees with "rebuttable presumption" in custody hearings. To date 29 states have adopted some form of presumed joint custody, with the assistance of CRC chapters in those states. In presumed joint custody hearings or interim custody decisions the decision-maker shall presume that both parents are equally "good" parents. Frequent, continuing, and meaningful parental contact with the child should be the department or court's first duty to every child.

When invoking a "rebuttable presumption", the clear and convincing evidence standard of proof should apply in all cases where one parent is wanting to have "sole" custody for any reason. The burden in "rebuttable presumption" cases should be on the parent or agency who has requested the presumption. All 29 states are seeing a marked decrease of abuse and neglect due to presumptive joint custody, mandatory divorce education and family mediation programs

It is time that both parents who allow or participate in domestic violence within the home where children live, must bear some responsibility for that violence. In custody cases involving domestic violence, the decision-maker should also consider of how many times the non-offending parent has made complaints to the police, DFYS, or has been in a shelter and the length of the stay/s. The decision-maker should also consider how many times a non-offending parent has returned to the home or failed to file appropriate charges on the offending partner. Finally, has the non-offending parent attended long term domestic violence or parenting classes or family counseling to remove themselves and their children from the circle of violence.

In domestic violence cases, where the non-offending parent is a custodial parent of the children and is divorced/separated or never married to the non-custodial parent, the decision-maker should notify the non-custodial parent. The decision-maker should be mandated to an emergency change of custody if the case, by clear and convincing evidence, determines that domestic violence is occurring in the non-offending parent's home and shall make the appropriate report to DFYS for investigation.

The Child Abuse and Protection Act revisions of 1996 (CAPTA) also federally mandated that states establish procedures and penalties for those persons filing false allegations of abuse or neglect for any reason. Alaska DFYS has yet to comply with this federal mandate. All states who have protocols in place to investigate and penalize persons who make false allegations are seeing a marked decrease in false allegations of abuse and neglect.

Special block grant funds for access and visitation were passed in the Welfare Reform Act 1996 to be used for neutral drop-off centers. These centers offer after-hour supervised areas for parents who have restricted visits and who are unable to take time off work during the day to conform to DFYS office hours. The centers also offer a safe place, where parents of domestic violence, or parents who fail to cooperate in visitation orders can leave children for the non-custodial parent to pick-up or have visitations in safety and without confrontations.

Glonda Straube, Director of CSED was the governor's appointed person to direct the funding of these special block grants. CRC and several legislators have been unable to determine who succeeded Ms. Straube upon her leaving, and where the funds are or their use.

**SECTION 27-- This section is not cohesive with the "legislative intent" of child protection and deletion of this entire section is appropriate.** However, this section will not be remembered when it comes to the many daily decisions that DHSS or DFYS employees make. This section is the legislative intent perpetrated by the governor, DHSS and DFYS and have no basis in any federal law or regulation. This section is based on a United Nation's "child protection" treaty. President Bill Clinton signed the "Bill of Rights for Children" several years ago. The treaty failed ratification in the US Senate 73-27. However, The President felt so strong about the "Bill of Rights for Children" he ordered the treaty be sent down through minor Congressional legislation and regulatory fiat for implementation. DHSS attached many government grants to these pieces of legislation in order to gain passage.

DFYS should be required by state law to develop and provide a "standard of duty" to every child and parent when DFYS decides to intrude into a family and forces DFYS's changes in the name of "best interest of the children". The department fears the development of any standard of duty, because of the financial interest of the department.

DFYS broadly interprets legislative intent when the agency is required by law or regulation to provide necessary support services to parents to prevent a child's removal or whose child is in state custody. On the other hand, the agency narrowly defines terms in dealing with parental responsibility -- reasonable or necessary efforts; essential, appropriate, or adequate care, and willingness and ability.

A CINA section needs to be added that ensures parental civil rights, due process, constitutional guarantees of protection from false or malicious persecution, fair and swift adjudication, and exoneration if the allegations are found to be unsubstantiated, invalid or false. A section with severe penalties for filing false allegations of abuse or neglect in attempt to malign the character of the other parent or sways a judicial decision is covered under the Child Abuse and Protection Act of 1996 should also be included.

The department should develop proven "certified" programs such as long-term domestic violence courses, divorce education, parenting classes, and family mediation/arbitration.

**Sections 20 & 28 - 62 -- This section is not cohesive with the "legislative intent" of child protection. These sections can remain in this bill.** Section 28 & part of section 45 are the only new federal mandates. Sections 29 - 67 will also have to pass by a two-thirds majority of each house of the legislature, to become effective.

CRC believes that the legislature should review the Adoption and Safe Family Act of 1997. The department and their legal advisors have misrepresented CSHB375 to the legislators by implying directly or indirectly that the original HB375 is federally mandated.


CRC believes that the legislature should review any federal Act that mandates changes in state laws or regulations that affect the family, its members or functions. The legislature should also question the financial interest of the agency, when the federal government rewards CPS departments "federal bounty", through grants or fees based on performance or changes that directly affect any family unity.

These sections need a great deal of review and adjustment to provide a greater degree of specificity and to promote the intent of the legislature. Using words such as essential, reasonable efforts, minimal efforts require more tangible definitions to reduce broad interpretation by the agency or the courts. These definitions need a more specific definition than are provided in current law or in the proposed statutes in CSHB375. Most parts of sections 29-57 are not attributable Adoption and Safe Families Act of 1997.

**SECTION 80 - 83** -- **These sections are not cohesive with the "legislative intent" of child protection. These sections must remain in this bill.** However, sections 29 - 57 will have to pass by a two-thirds majority of each house of the legislature, to become effective. Therefore, these sections are required to amend the Alaska Rules of Appellate Procedures, and Alaska Child In Need of Aid Rules. These rules require a two-thirds majority vote of each house to adopt these sections.

This concludes my testimony. Thank you for your cooperation and consideration of CRC's testimony.

Sincerely,



**Diana L. Buffington**

**President and State Coordinator, The Children's Right Council of Alaska  
Chairman, Alaska Task Force on Family Law Reform 1995 - 1997**

**317 Maple**

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<h1 style="margin: 0;">ACF</h1> <p style="margin: 10px 0;"><b>Administration for Children and Families</b></p>	<b>U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES</b> Administration on Children, Youth and Families	
	1. Log No. ACYF-PI- CB-98-01	2. Issuance Date: January 7, 1998
	3. Originating Office: Children's Bureau	
	4. Key Word: Child Abuse and Neglect State Grants	
	5. Citizen Review Panels	

**PROGRAM INSTRUCTION**

**TO:** The State Office, Agency, or Organization Designated by the Governor to Apply for a State Child Abuse and Neglect Grant

**SUBJECT:** Establishment of the Citizen Review Panel Requirement Under the Child Abuse Prevention and Treatment Act

**LEGAL REFERENCES:** Sections 106(b)(2)(A)(x) and (c) of the Child Abuse Prevention and Treatment Act, as amended (42 U.S.C. 5101 et seq.)

**PURPOSE:**

The purpose of this Program Instruction is to provide instruction on the citizen review panel requirements under the Child Abuse and Neglect State Grant (or Basic State Grant) Program.

**BACKGROUND:**

The Child Abuse Prevention and Treatment Act (CAPTA) was reauthorized and amended by "The CAPTA Amendments of 1996" (Public Law 104-235) on October 3, 1996. Section 106 (formerly 107) of CAPTA's Title I was amended to direct the focus of the State grant program to one of support and improvement of State child protective services (CPS) systems. This new legislation authorizes the annual award of funds to States that submit State plans every five years and meet certain other eligibility requirements.

One of those requirements is the establishment of citizen review panels. The purpose of these panels is to provide new opportunities for citizens to play an integral role in ensuring that States are meeting their goals of protecting children from abuse and neglect (Congressional Record - House, pp. H11148-9, September 25, 1996).

The number of panels a State must establish is statutorily linked to the amount of funds that it receives under the Community-Based Family Resource and Support (CBFRS) Program. Specifically, section 106(c)(1)(A) of CAPTA requires that recipients of a Basic State Grant establish no less than three citizen review panels. The only exception to that statutory requirement is that States receiving the minimum allotment of \$175,000 under the CBFRS Program are required to establish no less than one citizen review panel (section 106(c)(1)(B)).

#### DISCUSSION:

Although the concept of citizen review of State child protective services is new, citizen review panels have been around for a while. Citizen review boards originated in the 1970s as a result of State-based initiatives to review the status of children in the foster care system. In the 1980s, there was a dramatic increase in the creation of citizen review boards in response to Public Law 96-272, which required reviews of each child in foster care every six months.

Today, many States have established these review boards in State statute or through judicial appointment. These foster care review boards have evolved as a major mechanism for case specific and system accountability and have served as effective lobbyists for foster children, as well as for State agencies. These boards have resulted in increased community awareness and ownership of child abuse and neglect issues and the strengths, weaknesses and challenges facing the child welfare service delivery system.

A lesson to be learned in establishment of the citizen review panels under CAPTA is that, properly established, these panels have the capacity to promote creative problem solving with the involvement of community members who often represent a variety of disciplines. In addition, the annual reports of these boards have the potential for recommending not only increased resources, but also better collaboration and system change.

#### INSTRUCTION:

##### Number of Panels Required and Deadline for Establishment

All 50 States, as well as the District of Columbia and Puerto Rico, received more than the minimum allotment of \$175,000 under the CBFRS program in their FY 1997 awards (see enclosed list). Therefore, each of the 50 States, the District of Columbia and Puerto Rico must establish no less than three citizen review panels in accordance with section 106(c)(1)(A) of CAPTA and their FY 1997-1999 State plans.

Since the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and Palau submit consolidated grant applications in accordance with 45 CFR Part 97, these jurisdictions are not required to comply with the instructions set forth in this issuance.

3.

As discussed in ACYF-PI-NCCAN-97-01, while States are urged to implement the CAPTA requirements as soon as possible to comply with the CAPTA amendments, States have an interim planning period to implement the changes. The Governors' certifications that accompanied the State plans submitted in FY 1997 under CAPTA included an assurance that the citizen review panels required by CAPTA either were already in place or would be in place no later than June 30, 1999.

### Panel Membership

The statute directs States to establish panels that are composed of volunteer members who are broadly representative of the community in which the panel is established and include members with expertise in the prevention and treatment of child abuse and neglect. Accordingly, Statewide panels should include membership from across the State; regional and local panels should include membership reflective of those geographic communities.

We encourage States to give special attention to the goal and purpose of the panels and duties of the members to ensure that panelists have the necessary qualifications to review the complex issues presented by child maltreatment. It is recommended that panel membership include a balance among children's attorneys, child advocates, CASA volunteers, parent/consumer representatives and health/mental health professionals who are familiar with the intricacies of the CPS system. Since States are allowed to use certain standing panels for this purpose and some of those panels may be comprised of some child welfare/child protection staff, staff of the public agency are not prohibited from serving on these panels, so long as the majority of the panel's membership is comprised of volunteer members from other disciplines.

### Panel Requirements

As noted in section 106(c)(1)(B)(ii) of CAPTA, a State may designate one or more of its existing entities established under State or Federal law, such as child fatality panels or foster care review panels, to serve as citizen review panels under CAPTA, so long as those panels perform the functions set forth in section 106(1)(B)(4) of the statute. An example of another panel established by Federal law that States may consider for this purpose is the multidisciplinary task force required by the Children's Justice Act (CAPTA section 107(c)).

Pursuant to section 106(1)(B)(4) of CAPTA, each citizen review panel must evaluate the extent to which the State agency is effectively fulfilling its child protection responsibilities in accordance with the CAPTA State plan, as well as other criteria that the panel considers important to ensure the protection of children, including: (1) a review of the extent to which the State CPS system is coordinated with the foster care and adoption programs established

under title IV-E of the Social Security Act; and (2) a review of child fatalities and near fatalities, as defined in subsection 106(b)(4).<sup>1</sup>

The citizen review panel requirement need not create unnecessary duplication at the State and local level; the statute allows States to utilize existing panels, so long as they also fulfill the CAPTA requirements. Therefore, while the statute mandates that each of the three panels established under CAPTA must perform all the functions required by the statute, it does not prescribe that each panel engage in only these functions nor does it specify the depth or breadth of review. Accordingly, States have considerable flexibility in designing their panels.

Hypothetically, a State might choose to establish its citizen review panels so that the three panels would:

(1) each examine different portions of the State's policies and procedures relating to child abuse and neglect, and review of relevant cases, as determined appropriate by the panel, to determine the extent to which the agency is discharging its child protection responsibilities under its CAPTA State plan (section 106(c)(4)(A)(i));

(2) each review the extent to which the CPS system is coordinated with different portions of foster care and adoption programs under title IV-E of the Social Security Act (section 106(c)(4)(A)(ii)(I)); and

(3) each conduct reviews of child fatalities and near fatalities occurring in different regions of the State based on the findings and recommendations of a startling child fatality panel (section 106(c)(4)(A)(ii)(II)).

While CAPTA does not address geographic coverage by the panels, ACF encourages States to consider broad coverage. However, States have the flexibility to set up their panels in such a way that will be most appropriate for the State. For example, a State might establish one Statewide and two regional panels; or a State might establish three regional panels that do not cover the entire State but cover the areas of the State in which most child protection issues arise. Regardless of whether the panel is geographically based or statewide, it must meet the statutory requirement that each panel examine the policies and procedures of State and local agencies. In addition, the State should assure that the three panels combined review and input provide a holistic picture of the State's CPS system.

The statute requires that each panel meet no less frequently than every three months (section 106(c)(3)).

<sup>1</sup>Section 106(b)(4) defines "near fatality" as "an act that, as certified by a physician, places the child in serious or critical condition."

## State Assistance

### A. Panel Access to Case-Specific Information

Section 106(c)(5)(A) of CAPTA requires States to provide each citizen review panel with access to information on cases that the panel chooses to review if the information is necessary for the panel to carry out its functions under CAPTA. Report language clarifies that Congressional intent was to direct States to provide the review panels with information that the panel determines is necessary to carry out these functions (Congressional Record -- House, September 25, 1996, p. H11149).

### B. Staff Assistance

Section 106(c)(5)(B) of CAPTA requires that States provide staff assistance to the citizen review panels for the performance of their duties, upon request of the panel. We envision that these panels may need administrative support, in particular, to assist in typing reports and facilitating the exchange of case-specific information. A State should evaluate its staff resources when establishing its citizen review panels and make clear the extent to which staff will be available to panels.

## Reports

Section 106(d) of CAPTA requires that the citizen review panels develop annual reports and make them available to the public. These reports should be completed no later than 90 days after the end of the Federal fiscal year (December 31st of each year) and should, at a minimum, contain a summary of the panel's activities, as well as the recommendations of the panel based upon its activities and findings. States are encouraged to include these reports with their Annual Progress and Services Reports that are due to the Federal Regional Office by June 30th of each year and include information on the progress States are making in implementing the recommendations of the panels.

## Confidentiality

Citizen review panel members are bound by the confidentiality restrictions in section 106(c)(4)(B)(i) of CAPTA. Specifically, members and staff of a panel may not disclose identifying information about any specific child protection case to any person or government official, and may not make public other information unless authorized by State statute to do so.

Further, section 106(c)(4)(B)(ii) of CAPTA requires States to establish civil sanctions for violations of these confidentiality restrictions. States that already have civil sanctions in place for breaches of confidentiality need not enact new legislation, so long as their existing provisions encompass the CAPTA requirements.

6.

**General**

Enclosed as a resource for States is the publication, *"Supporting Effective Citizen Involvement in Child Protective Services: A Guide for State and Local Officials,"* which was published in 1996 by the Child and Family Policy Center in Des Moines, Iowa.

**INQUIRIES TO:** Regional HUB Directors and Administrators  
Regions I - X

James A. Harrell  
Deputy Commissioner

2 Enclosures



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Administration for Children and Families  
Administration on Children, Youth and Families

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# Child Abuse Prevention and Treatment Act, As Amended

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October 3, 1996



National Center on Child Abuse and Neglect

(c) **EVALUATION.**—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

**GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS**

**SEC. 106. (42 U.S.C. 5106a)**

(a) **DEVELOPMENT AND OPERATION GRANTS.**—The Secretary shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective services system of each such State in—

- (1) the intake, assessment, screening, and investigation of reports of abuse and neglect;
- (2) (A) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and  
(B) improving legal preparation and representation, including—
  - (i) procedures for appealing and responding to appeals of substantiated reports of abuse and neglect; and
  - (ii) provisions for the appointment of an individual appointed to represent a child in judicial proceedings;
- (3) case management and delivery of services provided to children and their families;
- (4) enhancing the general child protective system by improving risk and safety assessment tools and protocols, automation systems that support the program and track reports of child abuse and neglect from intake through final disposition and information referral systems;
- (5) developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families through the child protective system;
- (6) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

(7) developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;

(8) developing, implementing, or operating—

(A) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

(i) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

(ii) the parents of such infants; and

(B) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

(i) existing social and health services;

(ii) financial assistance; and

(iii) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; or

(9) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

(b) **ELIGIBILITY REQUIREMENTS.**—

(1) **STATE PLAN.**—

(A) **IN GENERAL.**—To be eligible to receive a grant under this section, a State shall, at the time of the initial grant application and every 5 years thereafter, prepare and submit to the Secretary a State plan that specifies the areas of the child protective services system described in subsection (a) that the State intends to address with amounts received under the grant.

(B) **ADDITIONAL REQUIREMENT.**—After the submission of the initial grant application under subparagraph (A), the State shall provide notice to the Secretary of any substantive changes to any State law relating to the prevention of child abuse and neglect that may affect the eligibility of the State under this section.

(2) **COORDINATION.**—A State plan submitted under paragraph

(1) shall, to the maximum extent practicable, be coordinated with the State plan under part B of title IV of the Social Security Act relating to child welfare services and family preservation and family support services, and shall contain an outline of the activities that the State

intends to carry out using amounts received under the grant to achieve the purposes of this title, including—

(A) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes—

- (i) provisions or procedures for the reporting of known and suspected instances of child abuse and neglect;
- (ii) procedures for the immediate screening, safety assessment, and prompt investigation of such reports;
- (iii) procedures for immediate steps to be taken to ensure and protect the safety of the abused or neglected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;

(iv) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

(v) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this Act shall only be made available to—

- (I) individuals who are the subject of the report;
- (II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;
- (III) child abuse citizen review panels;
- (IV) child fatality review panels;
- (V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;

(vi) provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;

(vii) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect;

(viii) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk and safety assessment;

(ix) provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem, who may be an attorney or a court appointed special advocate (or both), shall be appointed to represent the child in such proceedings—

(I) to obtain first-hand, a clear understanding of the situation and needs of the child; and

(II) to make recommendations to the court concerning the best interests of the child;

(x) the establishment of citizen review panels in accordance with subsection (c);

(xi) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section—

(I) for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and

(II) by which individuals who disagree with an official finding of abuse or neglect can appeal such finding;

(xii) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction—

(I) to have committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special

maritime or territorial jurisdiction of the United States) of another child of such parent;

(II) to have committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

(III) to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or

(IV) to have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent; and

(viii) an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (vii), conviction of any one of the felonies listed in clause (vii) constitutes grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case-by-case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State);

(B) an assurance that the State has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

(iii) authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions;

(C) a description of—

(i) the services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;

(ii) the training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect; and

(iii) the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect; and

(D) an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act comply with the requirements set forth in paragraph (F) and this paragraph.

(5) LIMITATION.—With regard to clauses (v) and (vi) of paragraph (2) (A), nothing in this section shall be construed as restricting the ability of a State to refuse to disclose identifying information concerning the individual submitting a report or complaint alleging suspected instances of child abuse or neglect, except that the State may not refuse such a disclosure where a court orders such disclosure after such court has reviewed, in camera, the record of the State related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.

(4) DEFINITIONS.—For purposes of this subsection—

(A) the term "near fatality" means an act that, as certified by a physician, places the child in serious or critical condition; and

(B) the term "serious bodily injury" means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(c) CITIZEN REVIEW PANELS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each State to which a grant is made under this section shall establish not less than 3 citizen review panels.

(B) EXCEPTIONS.—

(i) ESTABLISHMENT OF PANELS BY STATES RECEIVING MINIMUM ALLOTMENT.—A State that receives the minimum allotment of \$175,000 under section 203(b)(1)(A) for a fiscal year shall establish not less than 1 citizen review panel.

(ii) DESIGNATION OF EXISTING ENTITIES.—A State may designate as panels for purposes of this subsection one or more existing entities established under State or Federal law, such as child fatality panels or foster care review panels, if such entities have the capacity to satisfy the requirements of paragraph (4) and the State ensures that such entities will satisfy such requirements.

(2) MEMBERSHIP.—Each panel established pursuant to paragraph (1) shall be composed of volunteer members who are broadly representative of the community in which such panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

(3) MEETINGS.—Each panel established pursuant to paragraph (1) shall meet not less than once every 3 months.

(4) FUNCTIONS.—

(A) IN GENERAL.—Each panel established pursuant to paragraph (1) shall, by examining the policies and procedures of State and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with—

- (i) the State plan under subsection (b);
- (ii) the child protection standards set forth in subsection (b)<sup>2</sup>; and

(iii) any other criteria that the panel considers important to ensure the protection of children, including—

- (I) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act; and
- (II) a review of child fatalities and near fatalities (as defined in subsection (b)(4)).

<sup>2</sup>Subsection (b) is cited here in error since there are no child protection standards in subsection (b).

(B) CONFIDENTIALITY.—

(i) IN GENERAL.—The members and staff of a panel established under paragraph (1)—

(I) shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and

(II) shall not make public other information unless authorized by State statute.

(ii) CIVIL SANCTIONS.—Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).

(5) STATE ASSISTANCE.—Each State that establishes a panel pursuant to paragraph (1)—

(A) shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4); and

(B) shall provide the panel, upon its request, staff assistance for the performance of the duties of the panel.

(6) REPORTS.—Each panel established under paragraph (1) shall prepare and make available to the public, as an annual basis, a report containing a summary of the activities of the panel.

(7) ANNUAL STATE DATA REPORTS.—Each State to which a grant is made under this section shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:

(1) The number of children who were reported to the State during the year as abused or neglected.

(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—

- (A) substantiated;
- (B) unsubstantiated; or
- (C) determined to be false.

(3) Of the number of children described in paragraph (2)—

(A) the number that did not receive services during the year under the State program funded under this section or an equivalent State program;

(B) the number that received services during the year under the State program funded under this section or an equivalent State program; and

(C) the number that were removed from their families during the year by disposition of the case.

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## **(Non) Sponsor Statement for SB 272/HB 375**

*by Representative Fred Dyson*

My staff, other legislators, the administration, two committees, and I have worked for three months on this bill. We have made scores of changes to what came out of the Governors Child Protection Review Team. I believe this is a large (and relatively inexpensive) step forward in protecting our kids. We have general agreement from the Administration on the changes.

### **A. This bill does not...**

- ...guarantee that DFYS workers will not make mistakes
- ...guarantee that the court hearings for DFYS to take custody of a child will be fair.
- ...guarantee that each out-of-home child placement will be successful.
- ...force DFYS to shape up (but it does set performance standards).
- ...guarantee that a parent will "get their act together"

### **B. What will happen if we pass this bill?**

- We will have taken a very large step forward in protecting children
- We will be criticized by some for giving more power to an allegedly overbearing, child-grabbing, unaccountable rogue organization. We will be accused of attacking families and ushering in a Gestapo family police state.

### **C. What will happen if we don't pass this bill in some form?**

- Some \$10 million in federal funds will be in jeopardy because new federal law requires the states to come into conformity at the next state legislative session.
- State confidentiality laws will continue to limit the necessary cooperation between state agencies.
- Courts will continue to have problems with our inadequate, confusing, and obsolete definitions in state law.
- We will not have changed the emphasis of our child protection laws to make the safety of the child paramount.
- We will not have set, in law, the standards for DFYS to place children into safe and permanent homes within a year.
- We will not have tightened our criminal law related to child murder and abuse.
- We will not have mandated that foster parents get the information they need to care for the children in their charge.
- We will not have empowered DFYS to intervene before a child is killed or badly abused.

**D. What this bill does:**

- This bill increases penalties and closes loopholes that allow child killers to get light sentences.
- Eliminates confidentiality barriers to inter-agency communications and cooperation and mandates cooperation and communication.
- Allows for earlier intervention in cases of child abuse and neglect when the child is in a dangerous home.
- Makes child protection the highest priority for DFYS, even higher than "family reunification" at the expense of child safety.
- Purports to meet the requirement of new Federal Law and should qualify Alaska to continue to receive approximately \$10 million in funding annually.
- Creates a statewide Child Fatality Review Team and facilitates the formation of local Multidisciplinary Teams to coordinate the dealing with local child abuse cases.
- Provides for foster parents and other care givers to get all relevant information about the child in their care including criminal background, behavioral problems and medical history.
- Sets firm deadlines for proceedings and permanent placement.
- Clarifies definitions of vague terms that have trouble the courts and produced inconsistent protection of children.
- Provides for criminal checks for prospective caregivers.

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

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## HB375 Section 22

### Rebuttable Presumptions in Custody Proceedings involving Domestic Violence

A presumption is an assumption or supposition based on reasonable evidence. To rebut is to try to show to be false by presenting opposing arguments. A rebuttable presumption is a position from which the court starts a case and can only be changed if the respondent adequately shows the presumption to be false.

**Establishing a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of the domestic violence **rightly shifts the burden of proof onto the domestic violence perpetrator.**** The perpetrator should be the one who has to justify his ability to parent safely and responsibly as well as his ability to interact safely with his adult victim.

Men who batter their wives are likely to assault their children. The battering of women who are mothers usually predates the infliction of child abuse<sup>1</sup>. At least half of all battering husbands also batter their children.<sup>2</sup> The more severe the abuse of the mother, the worse the child abuse.<sup>3</sup> The risk of violence directed both toward the child and the battered parent is frequently greater after separation than during cohabitation; this elevated risk often continues after legal interventions<sup>4</sup>.

Further, research confirms that the post-separation adjustment of a child is assisted by an award of sole custody to a non-abusive parent who offers the child a warm relationship, provides a routine, discipline, and who buffers the child against parental conflict and abuse.<sup>5</sup>

Help protect children of domestic violence families by keeping the rebuttable presumptions in HB375.

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<sup>1</sup> Stark, E. & Filtcraft, A. (1988). Women and Children at Risk. *International Journal of Health Services*, 18 (1) 97-118.

<sup>2</sup> Pagelow, M. (1989). *The Forgotten Victims: Children of Domestic Violence*. Paper prepared for presentation at the Domestic Violence Seminar of the Los Angeles County Domestic Violence Council.

<sup>3</sup> Bowker, L.H., Arjittell, M., & McFerron, J.R. (1988). On the Relationship Between Wife Beating and Child Abuse. In K. Yllo and M. Bograd (Eds.), *Perspectives on Wife Abuse*. Newbury Park, CA: Sage.

<sup>4</sup> Mahoney, M. R. (October 1992). *Legal Images of Battered Women: Redefining the Issue of Separation*. *Michigan Law Review*, 90(1).

<sup>5</sup> Kelly, J.B. (Winter 1992). *Parental Conflict: Taking the Higher Road*. *Family Advocate*. Furstenberg, F.F., Jr. and Cherlin, A. J. (1991). *Divided Families: What Happens to Children When Parents Part*. Cambridge, MA: Harvard University Press. Wallerstein, Jj. and Blakeslee, S. (1990). *Second Chances; Men, Women, and Children a Decade After Divorce*. Tichknow and Fields.

## SB 272 / HB 375

- ***Increase penalties for homicides and other crimes with child victims***

Persons who kill children rarely intend to kill and are often charged with less serious charges than those persons who kill adults. The bills allow more serious charges for those who kill children, when their multiple acts of violence resulted in the death of a child.

- 1) The bills increase the penalties for those who kill children. Under existing law, a person convicted in shaken-baby deaths can be sentenced to no more than two years. Under the new law the maximum sentence would increase to 10 years.
- 2) Alaska joins other states in criminally penalizing abandonment, abuse, and neglect of children.

- ***Tighten and clarify sex offender registration requirements***

Like many states, Alaska now has a law requiring convicted sex offenders to register so their whereabouts can be tracked and the public protected. Still, an estimated 788 sex offenders have avoided registration. Under these proposed bills sex offenders would be required to register before leaving prison.

- ***Create a Child Fatality Review Team to investigate child deaths***

Between 1992 and 1996, as many as 10 abuse-or neglect-related child deaths went undetected in Alaska because no systematic process existed to review child deaths. These bills would place in statute a child death review process through the State Medical Examiner to ensure that deaths from abuse and neglect are identified and prosecuted and that action is taken to protect surviving siblings.

- ***Allow earlier intervention in cases of abuse and neglect***

Current Alaska law, as interpreted by recent Supreme Court decisions, limits protection for children by allowing intervention primarily *after* harm has occurred or only when *substantial physical harm* is imminent. These bills would clarify the grounds for intervention and allow intervention *before* harm occurs, as soon as a child is found in a dangerous home. Intervention to change the home situation could occur before, rather than after, a child is hurt.

- ***Incorporate changes in federal law to better protect children and move them quicker into safe, permanent homes***

Research teaches us that children younger than 6 need to attach and bond to a permanent secure caretaker. The bills allow children younger than 6 who have been abandoned to be quickly placed into permanent safe homes.

## SB 272 / HB 375

- ***Make child health and safety paramount in all child protection actions***

The bills follow the direction of federal law in establishing that the health and safety of children are the most important considerations in child protection decisions and actions. Under existing state law, the rights of parents to raise their child may result in a child being returned to a dangerous home.

- ***Continue requirements to make reasonable efforts to preserve and reunify families but limit application in certain aggravated situations***

States continue to be required to make efforts to preserve and reunite families except in situations where it is clearly not in the interests of children such as:

- 1) when a child has been abandoned, tortured, subjected to chronic abuse or sexual abuse;
- 2) a parent has killed a child or has assaulted a child and caused serious physical injury to the child;
- 3) a parent's rights to a sibling have been involuntarily terminated.

- ***Require faster transition to safe, permanent homes for victims of abuse and neglect***

Federal law establishes requirements for faster action to prevent child victims from lingering in temporary care for years while parents make repeated, unsuccessful attempts to remedy behavior that places the child at risk in their home. These bills follow federal law in:

- 4) requiring earlier hearings to establish a permanent plan (within 12 months of a child's removal from his or her home);
- 5) establishing strict timelines for action to terminate parental rights when children have been in foster care (action is required when children have been in foster care 15 of 22 months);

These bills set strict time limits for action by both parents and state agencies to assure parents make changes that allow children to return home safely or that state agencies act to speed up legal proceedings and place children in safe, permanent families.

- ***Establish procedures for criminal records checks for any prospective foster or adoptive parents before the parents are finally approved for placement of a child***

The bill insures that children are placed in homes that have been thoroughly investigated, prior to placing a child there. Persons over 16 in a licensed home who cares for children will be required to complete a thorough criminal background check using fingerprints. Licensed homes will be regularly rechecked for criminal activity.

- ***Allow foster parents and other caregivers to take part in child welfare hearings***

The bills follow federal law in allowing foster parents and caregivers for children to get notice of hearings and be heard in hearings regarding the child in their care.

**Child Protection Bill Comparison  
CSHB 375 (JUD)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for HB 375 (JUD)</b>
AS 11.41.100 (a) (2)	Murder One when 2 violent acts toward a child result in death	AS 11.41.100 (a) (2)	No change.
AS 11.41.100 (a) (3)	Murder One when child dies during sex crime or kidnapping	AS 11.41.100 (a) (3)	No change.
AS 11.41.110 (a) (5)	Murder Two when child dies and offender has a prior conviction for a violent crime against a child	AS 11.110 (a) (5)	No change.
AS 11.41.130 (b)	Criminally Negligent Homicide is a B felony, rather than a C felony.	AS 11.41.130 (a)	Deleted per single subject rule. Same change in SB 218.
AS 11.41.300 (a)(1)(F)	Kidnapping includes restraint with sexual abuse of a minor or fear of sexual abuse.	AS 11.41.300 (a)(1)(F)	No change.
AS 11.41.300(d)	Kidnapping mitigated by release of victim without committing sexual assault or sexual abuse in first or second degree.	AS 11.41.300 (d)	No change.
AS 11.41.458	Creates felony indecent exposure for sex act in presence of a child	AS 11.41.458	No change.
AS 11.41.460	Misdemeanor indecent exposure amended to knowing exposure, rather than intentional exposure.	AS 11.41.460	Requires intentional exposure.

Child Protection Bill Comparison  
CSHB 375 (JUD)

Statute	Governor's HB 375/SB 272	Statute	CS for HB 375 (JUD)
AS 11.51.100	Endangering the Welfare of a Child expanded to leaving children with persons known to be dangerous to children.	AS 11.51.100	Amended to apply to children younger than 16 years.
AS 11.51.110	Creates a violation for Endangering: caring for child under 6 while possessing drugs, incapacitated or unattended child.	AS 11.51.110	Amended to victims under age 10; children in places where drugs are kept; impaired caretaker has babysitter defense.
AS 11.51.115	Felony criminal nonsupport for: hiding assets and accumulating a \$10,000 debt.	AS 11.51.115	Deleted. Amendment possible in HB 344.
AS 11.51.120	Misdemeanor criminal nonsupport for failure to pay when ordered by an administrative agency or court.	AS 11.51.120	Deleted. Amendment possible in HB 344.
		AS 12.55.025(i)	Amends reference to AS 12.55.125(k) which adds (1) and maintains (2)
AS 12.55.125 (c)(2) (B)	Manslaughter minimum raised from 5 to 7 years when the victim is a child	AS 12.55.125 (c)(2)(B)	Amended so that criminal conduct must be directed toward a child.
AS 12.55.125 (k)	Can aggravate sentence for crim neg homicide when the victim is a child	AS 12.55.125 (k)	No change.
		AS 12.55.155(c)(23)	Amendment to drug sentencing statutes aggravating sentence when offender was caring for a child.

Child Protection Bill Comparison  
CSHB 375 (JUD)

Statute	Governor's HB 375/SB 272	Statute	CS for HB 375 (JUD)
		AS 12.55.155(e)	Amends reference to AS 12.55.125(c)(2)(A).
AS 12.63.010 (a) and (b)	Tightens sex offender registration.	AS 12.63.010 (a) and (b)	Deleted per single subject rule. Same amendment in HB 252.
AS 12.65.005(a)-12.65.140	Creates child fatality review team in statute.	AS 12.65.005(a)-12.65.140	No change.
AS 14.20.020 (f); 14.20.030 (b)	No teaching certificates for sex offenders.	AS 14.20.020 (f) ; 14.20.030 (b)	No change.
AS 18.65.087 (a)	Allows DOC to register sex offenders.	AS 18.65.087 (a)	Deleted per single subject rule. Same amendment in HB 252.
AS 22.15.100	Changes "minor" to "child" to clarify CINA rather than JD status	AS 22.15.100	No change.
		AS 25.20.061-25.24.150(c)	Presumptions in custody/d vorce cases added to original.
AS 33.30.012 (a)	Allows DOC to register sex offender prior to release and forward info to DPS.	AS 33.30.012 (a)	Deleted per single subject rule. Same amendment in HB 252.

Child Protection Bill Comparison  
CSHB 375 (JUD)

Statute	Governor's HB 375/SB 272	Statute	CS for HB 375 (JUD)
		AS 43.23.065(b)	Includes reference to presumption statute.
	Legislative intent not in statute	AS 47.05.065	Legislative intent in statute.
AS 47.05.090	Medicaid eligibility for special needs children being adopted out of state	AS 47.05.090	No change.
AS 47.10.005	Statement to courts on how to construe statute.	AS 47.10.005	No change.
AS 47.10.010	Jurisdictional statement.	AS 47.10.010	No change.
AS 47.10.011(a)(1)	(a) (1) abandoned child	AS 47.10.011(a)(1)	(a)(1) abandoned by one parent and the other parent creates CINA status
AS 47.10.011(a)(2)	(a) (2) incarcerated parent for DV and failure to provide care	AS 47.10.011(a)(2)	(a)(2) one parent incarcerated for any reason and the other parent creates CINA status
AS 47.10.011(a)(3)	(a) (3) child left with unwilling or unable custodian	AS 47.10.011(a)(3)	(a)(3) no change.

Child Protection Bill Comparison  
CSHB 375 (JUD)

Statute	Governor's HB 375/SB 272	Statute	CS for HB 375 (JUD)
AS 47.10.011(a)(4)	(a)(4) runaway status creates risk to child's physical or emotional health or safety	AS 47.10.011(a)(4)	(a)(4) no change.
AS 47.10.011(a)(5)	(a)(5) medical neglect for both physical and emotional disorders as specified in statute.	AS 47.10.011(a)(5)	(a)(5) medical neglect for physical and mental injury
AS 47.10.011(a)(6)	(a)(6) child suffered physical harm or is at substantial risk	AS 47.10.011(a)(6)	(a)(6) child has suffered substantial physical harm or is at substantial risk
AS 47.10.011(a)(7)	(a)(7) child has suffered sexual abuse or is at substantial risk	AS 47.10.011(a)(7)	(a)(7) no change.
AS 47.10.011(a)(8)	(a)(8) emotional harm; domestic violence as evidence of emotional harm	AS 47.10.011(a)(8)	(a)(8) child has suffered mental injury or is at substantial risk
AS 47.10.011(a)(9)	(a)(9) physical neglect	AS 47.10.011(a)(9)	(a)(9) no change.
AS 47.10.011(a)(10)	(a)(10) substance abuse impairs ability to parent; relapse provision.	AS 47.10.011(a)(10)	(a)(10) substance abuse impairs ability to parent or places child at substantial risk; relapse provision
AS 47.10.011(a)(11)	(a)(11) mental illness renders parent incapable of proper care for extended periods of time	AS 47.10.011(a)(11)	(a)(11) mental illness has caused harm to child or placed child at substantial risk of physical or mental injury

Child Protection Bill Comparison  
CSHB 375 (JUD)

Statute	Governor's HB 375/SB 272	Statute	CS for HB 375 (JUD)
AS 47.10.011(a)(12)	(a)(12) parents pressure child to act illegally	AS 47.10.011(a)(12)	(a)(12) no change.
AS 47.10.013	Abandonment defined so that children younger than six get permanent homes faster.	AS 47.10.013	All children may be declared abandoned after three months without meaningful contact or support.
AS 47.10.014	Neglect defined more specifically than in AS 47.17.290	AS 47.10.014	Deletes "emotional health and development" and uses "mental health and development."
AS 47.10.017	Physical harm defined as a criminal assault by a parent; includes substantial risk of injury	AS 47.10.017	No change.
		AS 47.10.019	Limits jurisdiction based solely on poverty, housing or peculiar lifestyle.
AS 47.10.020(a)	Format for Child in Need of Aid (CINA) petition	AS 47.10.020(a)	No change.
		AS 47.10.030(b)	Expands formal notice requirement to foster parents, out of home custodians and tribe.
AS 47.10.050(a)	GAL shall be appointed in any CINA proceeding; attorney permissive.	AS 47.10.050(a)	No change.

**Child Protection Bill Comparison  
CSHB 375 (JUD)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for HB 375 (JUD)</b>
AS 47.10.070(c)	Allows foster parents to receive notice of hearings, attend hearings, and be heard	AS 47.10.070(c)	Allows foster parents, out of home custodians, and tribes to receive formal notice of first hearing; attend, be heard.
AS 47.10.080(a)	Allegations must be proven by a preponderance of the evidence within 120 days of probable cause finding	AS 47.10.080(a)	No change.
AS 47.10.080(c)(1)	GAL can request extension of legal custody; Parties get advance notice of move and may request a hearing.	AS 47.10.080(c)(1)	Amended to allow one-year extension of legal custody; hearings on transfers in AS 47.10.080(s)
AS 47.10.080(c)(2)	GAL can request extension of supervision.	AS 47.10.080(c)(2)	Amended to allow one-year extension of supervision.
AS 47.10.080(c)(3)	Termination of Parental Rights Order followed by annual reports on permanence.	AS 47.10.080(c)(3)	Requires quarterly reports on permanence.
AS 47.10.080(f)	Requires at least annual permanency hearings; GAL can request review.	AS 47.10.080(f)	Annual permanency hearings for children in out of home placements; annual review hearings for children placed in home.
AS 47.10.080(i)	Decision on appeal within 90 days	AS 47.10.080(i)	Decision on appeal within 90 days; deadline using oral argument date.
AS 47.10.080(l)	Permanency hearing within twelve months of removal from home as calculated in AS 47.10.088(f)	AS 47.10.080(l)	No change.

**Child Protection Bill Comparison  
CSHB 375 (JUD)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for HB 375 (JUD)</b>
AS 47.10.080(l)(2)	Court findings on permanent plan for child	AS 47.10.080(l)(2)	Findings amended to meet federal requirements.
AS 47.10.080(o)	Termination of Parental Rights based on a parent's incarceration	AS 47.10.080(o)	Amended to require that no other parent is willing and able to care for the child.
		AS 47.10.080(p)	Visitation statute added.
		AS 47.10.080(q)	Information that DFYS must provide to foster parents and vice versa.
		AS 47.10.080 (r)	Information that parents must provide to DFYS
		AS 47.10.080(s)	Requirements for DFYS to move a child. Amends AS 47.10.080(c)(1).
AS 47.10.082	Best interests of the child must be considered at disposition.	AS 47.10.082	Child's health and safety must be the paramount concern.
		AS 47.10.084	Requires DFYS to obtain legal representation for children in state custody and make decisions of legal or financial significance about a child.
AS 47.10.086	DFYS does not have to return children home in certain situations, if proven to court	AS 47.10.086	Expands the grounds for DFYS to seek court order that return home of child is not required.

**Child Protection Bill Comparison  
CSHB 375 (JUD)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for HB 375 (JUD)</b>
AS 47.10.088(j)	Requires trial on petition to terminate parental rights within six months of filing petition	AS 47.10.088(j)	No change.
AS 47.10.088(k)	Requires decision on termination of parental rights within ninety days of trial completion	AS 47.10.088(k)	No change.
AS 47.10.092(a)	Allows DFYS to respond to legislators with info about child and family, not just child	AS 47.10.092(a)	Requires DFYS to respond to requests for information as a duty
AS 47.10.093 (b)	Loosens confidentiality restrictions; state medical examiner; teams; reporters of harm; federal law enforcement; CSED	AS 47.10.093(b)	Adds foster parents and transforms exceptions to confidentiality to duties that DFYS provide confidential information
AS 47.10.142(a)	Emergency custody when a sibling is sexually abused.	AS 47.10.142(a)	deletes requirement of "gross neglect" for emergency custody
		AS 47.10.142(c)	Requires DFYS to provide parents info on why child released and to whom.
		AS 47.10.142(h)	Requires 12-month hearing to review plan.
		AS 47.10.960	No duty of care by DFYS created in statute.

**Child Protection Bill Comparison  
CSHB 375 (JUD)**

<b>Statute</b>	<b>Governor's HB 375/SB 272</b>	<b>Statute</b>	<b>CS for HB 375 (JUD)</b>
AS 47.10.990	Definitions amended to include additional terms. Some definitions in CINA Rule 2	AS 47.10.990	Emotional harm deleted; mental injury inserted; reasonable efforts definition amended.
	(a)(18) reasonable efforts by DFYS are time-limited services to prevent removal and to make safe return possible		(a)(18) reasonable efforts are consistent attempts by DFYS to offer services to a family
AS 47.12.310(b)	Loosens confidentiality in JD cases; includes federal law enforcement, medical examiner.	AS 47.12.310(b)	Mandates a response by DFYS; adds specific amendment for foster parents; Variation on amendment in HB 16.
		AS 47.14.100(a)	Statutory amendments to references.
AS 47.14.100(d)	Allows DFYS to provide respite care to foster parents for stress relief.	AS 47.14.100(d)	No change.
		AS 47.14.100(e)	Amends blood relative preference to require DFYS to do criminal background checks and allow fingerprint background checks.
		AS 47.14.100(i)	Requires DFYS to place a child with one safe parent if doing so would prevent removal from the home.
		AS 47.14.240	Citizen review panel gets healthcare records and report filed with court.

Child Protection Bill Comparison  
CSHB 375 (JUD)

Statute	Governor's HB 375/SB 272	Statute	CS for HB 375 (JUD)
AS 47.14.300	Creates multidisciplinary teams.	AS 47.14.300	No change.
AS 47.17.020(a)	Mandates members of child fatality review team and multidisciplinary team to report child abuse and neglect.	AS 47.17.020(a)	No change.
AS 47.17.020(h) and (i)	Clarifies when DV and Alcohol treatment programs must make mandated reports of child abuse and neglect	AS 47.17.020 (h)and (i)	No change.
AS 47.17.033	Allows DFYS to investigate criminal histories of parents and perpetrators.	AS 47.17.033	No change.
		AS 47.17.035(b)	Amendments to duties of DFYS in DV cases.
AS 47.35.017(b)	Requires criminal background checks including fingerprints for licensed homes.	AS 47.35.017(b)	Adds drivers' license and SSN provisions.
AS 47.35.022	No license when certain criminal histories uncovered; procedure for rechecks.	AS 47.35.022	No change.
AS 47.35.023(b)	Emergency license for 180 days with partial compliance with criminal background check	AS 47.35.023(b)	Emergency license for 90 days; with provisions for two 90-day extensions.
AS 47.35.047(b)	Licensee has duty to report new offenses.	AS 47.35.047(b)	No change.

## State by State Comparison of Emotional Harm Definitions

State	Definition
Alaska	an injury to the emotional well-being, or intellectual or psychological capacity of a child, as evidenced by an observable and substantial impairment in the child's ability to function in a developmentally appropriate manner
Arizona	the infliction of or allowing another person to cause serious emotional damage, as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior, and which emotional damage is diagnosed by a medical doctor or psychologist
Arkansas	an observable and substantial impairment in the intellectual or psychological capacity of the juvenile to function within his normal range of performance and behavior with due regard to his culture
Florida	an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability to function within the normal range of performance and behavior, with due regard to his culture
Idaho	substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior
Iowa	mental injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior; must be diagnosed and confirmed by a
	licensed physician or qualified mental health professional
Kentucky	injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range or performance and behavior with due regard to his age, development,
	culture, and environment

<p>Maine</p>	<p>which now or in the future is likely to be evidenced by serious mental, behavioral or personality disorder, including severe anxiety, depression or withdrawal, untoward aggressive behavior, seriously delayed development or similar serious dysfunctional</p>
	<p>behavior</p>
<p>Maryland</p>	<p>observable, identifiable, and substantial impairment of a child's mental or psychological ability to function</p>
<p>Minnesota</p>	<p>injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture</p>
<p>Montana</p>	<p>identifiable and substantial impairment of the child's intellectual or psychological functioning</p>
<p>Nevada</p>	<p>injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of his ability to function within his normal range of performance or behavior</p>
<p>North Carolina</p>	<p>serious emotional damage as evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others</p>
<p>Oregon</p>	<p>any mental injury to a child, which 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</p>
<p>Pennsylvania</p>	<p>a psychological condition, diagnosed by a physician or licensed psychologist that: a) renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened;</p>
	<p>or b) seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.</p>

<p>Rhode Island</p>	<p>substantially diminished psychological or intellectual functioning in relation to, but not limited to, the following factors: a. failure to thrive; b. ability to think or reason; c. control of aggressive or self-destructive impulses;</p>
	<p>d. acting-out or misbehavior, including incorrigibility, ungovernability, or habitual truancy.</p>
<p>South Carolina</p>	<p>injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment of the child's ability to function when the existence of that impairment is supported by the opinion of a mental health or</p>
	<p>medical professional</p>
<p>South Dakota</p>	<p>injury to the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior with due regard to the child's culture</p>
<p>Tennessee</p>	<p>injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in his ability to function within his normal range of performance and behavior, with due regard to his culture</p>
<p>Wisconsin</p>	<p>exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, and a failure to obtain needed treatment</p>
	<p>This may be demonstrated by a substantial and observable change in behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development</p>
<p>Wyoming</p>	<p>injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in his ability to function within a normal range of performance and behavior with due regard to his culture.</p>