

**HEB**

**127**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 12, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/22/97

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 127

HOUSE BILL NO. 127

FOSTER CARE REVIEW BOARD

"An Act relating to the citizen review board and panels for permanency planning for certain children in state custody; renaming the Citizens' Review Panel For Permanency Planning as the Citizens' Foster Care Review Board; extending the termination date of the Citizens' Foster Care Review Board; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 127 (HES)  the same title  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) ② Admin  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) H+SS  zero fiscal note(s) \_\_\_\_\_

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|----|-----|----|----|
| <i>Paul Doyen</i>            | ✓  |     |    |    |
| <i>Con Bunde</i>             | ✓  |     | ✓  |    |
| <i>Bruce D. Porter</i>       |    |     | ✓  |    |
| <i>[Signature]</i>           |    |     | ✓  |    |
| <i>[Signature]</i>           |    |     | ✓  |    |
|                              |    |     |    |    |
|                              |    |     |    |    |
|                              |    |     |    |    |
|                              |    |     |    |    |

CHAIR'S SIGNATURE *Con Bunde*

# FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 127(HES)

1997 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Department Affected: Administration

Title: "An Act relating to the citizen review board and panels for permanency planning for certain children in state custody..."

BRU: Public Defender Agency

Component: Public Defender Agency

Sponsor: (S) HES

COMPONENT SERIAL NO. 1631

Requestor: (H) HES

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES      | ***   | ***   | ***   | ***   | ***   | ***   |
| TRAVEL                 |       |       |       |       |       |       |
| CONTRACTUAL            |       |       |       |       |       |       |
| SUPPLIES               |       |       |       |       |       |       |
| EQUIPMENT              |       |       |       |       |       |       |
| LAND & STRUCTURES      |       |       |       |       |       |       |
| GRANTS, CLAIMS         |       |       |       |       |       |       |
| MISCELLANEOUS          |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | ***   | ***   | ***   | ***   | ***   | ***   |

|                             |     |     |     |     |     |     |
|-----------------------------|-----|-----|-----|-----|-----|-----|
| <b>CAPITAL EXPENDITURES</b> | *** | *** | *** | *** | *** | *** |
|-----------------------------|-----|-----|-----|-----|-----|-----|

|                               |     |     |     |     |     |     |
|-------------------------------|-----|-----|-----|-----|-----|-----|
| <b>CHANGE IN REVENUES ( )</b> | *** | *** | *** | *** | *** | *** |
|-------------------------------|-----|-----|-----|-----|-----|-----|

**FUND SOURCE:**

(Thousands of Dollars)

|                          |     |     |     |     |     |     |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts    | *** | *** | *** | *** | *** | *** |
| 1003 GF Match            |     |     |     |     |     |     |
| 1004 GF                  |     |     |     |     |     |     |
| 1005 GF/Program Receipts |     |     |     |     |     |     |
| 1037 GF/Mental Health    |     |     |     |     |     |     |
| OTHER                    |     |     |     |     |     |     |
| <b>TOTAL</b>             | *** | *** | *** | *** | *** | *** |

Estimate of any current year (FY 97) cost: \$ -0-

**POSITIONS:**

|           |     |     |     |     |     |     |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | *** | *** | *** | *** | *** | *** |
| PART-TIME |     |     |     |     |     |     |
| TEMPORARY |     |     |     |     |     |     |

**ANALYSIS:** (Attach a separate page if necessary.) This bill would establish citizens' foster care review in CINA cases. The Public Defender Agency (PDA) was appointed by the court to represent parents in 623 CINA cases in FY 1996. We estimate that in roughly 50% of our cases out-of-home placement extends long enough to require placement review.

It is difficult to estimate how much attorney time would be required to participate in these reviews. The current citizens' panels only review a limited number of CINA cases. Currently, we do not routinely attend the review hearings.

If the proposed legislation results in local review panels being established statewide and the review panel reports are considered in court decisions (see Sec. 21), we would have to start participating in the review process. It is impossible to accurately estimate how many of these cases would require our participation. But where the placement of a child is in controversy and the court would rely on a review panel report, we will have to participate.

Prepared by Barbara K. Brint, Director  
 Division: Public Defender Agency

Phone: (907) 264-4414  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 4/21/97

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 127

Revision Date: \_\_\_\_\_  
 Title: Relating to Foster Care Review Boards  
 Sponsor: Bunde  
 Requestor: House (HES)

Dept. Affected: Health and Social Services  
 BRU: Family and Youth Services  
 Component: DFYS Central Office  
 COMPONENT SERIAL NO. 259  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

| OPERATING              | FY98       | FY99       | FY00       | FY01       | FY02       | FY03       |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES      |            |            |            |            |            |            |
| TRAVEL                 |            |            |            |            |            |            |
| CONTRACTUAL            |            |            |            |            |            |            |
| SUPPLIES               |            |            |            |            |            |            |
| EQUIPMENT              |            |            |            |            |            |            |
| LAND & STRUCTURES      |            |            |            |            |            |            |
| GRANTS, CLAIMS         |            |            |            |            |            |            |
| MISCELLANEOUS          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                     |  |  |  |  |  |  |
|---------------------|--|--|--|--|--|--|
| CHANGES IN REVENUES |  |  |  |  |  |  |
|---------------------|--|--|--|--|--|--|

**FUND SOURCE**

(Thousands of Dollars)

| FUND SOURCE              | FY98       | FY99       | FY00       | FY01       | FY02       | FY03       |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts    |            |            |            |            |            |            |
| 1003 GF Match            |            |            |            |            |            |            |
| 1004 GF                  |            |            |            |            |            |            |
| 1005 GF/Program Receipts |            |            |            |            |            |            |
| 1037 GF/Mental Health    |            |            |            |            |            |            |
| Other (please specify)   |            |            |            |            |            |            |
| <b>TOTAL</b>             | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**POSITIONS:**

| POSITIONS | FY98 | FY99 | FY00 | FY01 | FY02 | FY03 |
|-----------|------|------|------|------|------|------|
| FULL-TIME |      |      |      |      |      |      |
| PART-TIME |      |      |      |      |      |      |
| TEMPORARY |      |      |      |      |      |      |

Estimate of any current year (FY97) cost: 0.0

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

There would be no fiscal impact to the Division if this bill were to become law.

Prepared by: L. Diane Worley, Director *Diane W* Phone: 465-3191  
 Division: Family & Youth Services Date: 03/11/97  
 Approved by Commissioner: Karen Perdue, Commissioner *K Perdue* Date: 3/19/97  
 Agency: Department of Health & Social Services

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# FISCAL NOTE

N. \_\_\_\_\_

Bill Version: 118127

(S) Publish Date: \_\_\_\_\_

**STATE OF ALASKA  
1997 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: Citizen's Review Board for BRU: Central. Adm. Services  
Foster Care Component: Citizen's Foster Care Review  
 Sponsor: Rules Committee  
 Requestor: Governor COMPONENT SERIAL NO. 1888

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

| OPERATING EXPENDITURE  | FY 98        | FY 99        | FY 00        | FY 01        | FY 02        | FY 03        |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| PERSONAL SERVICES      | 76.8         | 76.8         | 76.8         | 76.8         | 76.8         | 76.8         |
| TRAVEL                 | 24.0         | 24.0         | 24.0         | 24.0         | 24.0         | 24.0         |
| CONTRACTUAL            | 18.0         | 18.0         | 18.0         | 18.0         | 18.0         | 18.0         |
| SUPPLIES               | 3.0          | 3.0          | 3.0          | 3.0          | 3.0          | 3.0          |
| EQUIPMENT              | 20.0         | 0.0          | 0.0          | 0.0          | 0.0          | 0.0          |
| LAND & STRUCTURES      |              |              |              |              |              |              |
| GRANTS, CLAIMS         |              |              |              |              |              |              |
| MISCELLANEOUS          |              |              |              |              |              |              |
| <b>TOTAL OPERATING</b> | <b>141.8</b> | <b>121.8</b> | <b>121.8</b> | <b>121.8</b> | <b>121.8</b> | <b>121.8</b> |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                        |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES ( ) |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|

**FUND SOURCE (Thousands of Dollars)**

|                          |              |              |              |              |              |              |
|--------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts    |              |              |              |              |              |              |
| 1003 GF Match            |              |              |              |              |              |              |
| 1004 GF                  | 141.8        | 121.8        | 121.8        | 121.8        | 121.8        | 121.8        |
| 1005 GF/Program Receipts |              |              |              |              |              |              |
| 1037 GF/Mental Health    |              |              |              |              |              |              |
| Other                    |              |              |              |              |              |              |
| <b>Total</b>             | <b>141.8</b> | <b>121.8</b> | <b>121.8</b> | <b>121.8</b> | <b>121.8</b> | <b>121.8</b> |

Estimate of current year (FY 97) cost: \$ 0.0

**POSITIONS:**

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

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

This fiscal note would allow the Board to hire the executive director (Range 20 Social Services Program Coordinator-\$68.3) as authorized in legislation, and the remaining \$8.5 would bring three existing PFT positions from 30 hours per week per person to actually working full time. [Existing staff include a Social Worker IV (R. 18), a Social Worker II (R. 14), and an Administrative Clerk III (R. 10).] The travel funds will allow the newly appointed statewide Board to meet twice a year face to face, and fund travel by staff and board members to all judicial districts to offer start-up training to volunteer citizens who wish to serve on local review panels. The contract funds will purchase the additional telephone, teleconference, printing and other charges needed to support the state Board and communication with all the local panels, as well as training materials, training contractors, etc. An increase in supplies to support additional training materials, etc. is included. Finally, a one time purchase of furniture, computer and software for the new executive director, and computer/software/and communication upgrades for all staff, are included in the equipment line.

Prepared by: Connie J. Sipe/klw Phone: 563-5654  
 Division: Senior Services Date: 24-Jan-97

Approved by Commissioner: Mark Boyer Date: 1/24/97  
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. CSHB 127

Revision Date: \_\_\_\_\_  
Title: An Act related to the citizen review board and panels for permanency planning for certain children in state custody...  
Sponsor: (S) HESS  
Requestor: (H) HESS

Department Affected: Administration  
BRU: Central Admin. Services  
Component: Citizen's Foster Care Review  
COMPONENT SERIAL NO. 1888

EXPENDITURES/REVENUES:

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 98        | FY 99        | FY 00        | FY 01        | FY 02        | FY 03        |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| PERSONAL SERVICES      | 76.8         | 76.8         | 76.8         | 76.8         | 76.8         | 76.8         |
| TRAVEL                 | 29.0         | 29.0         | 29.0         | 29.0         | 29.0         | 29.0         |
| CONTRACTUAL            | 118.0        | 68.0         | 68.0         | 68.0         | 68.0         | 68.0         |
| SUPPLIES               | 8.0          | 5.0          | 5.0          | 5.0          | 5.0          | 5.0          |
| EQUIPMENT              | 20.0         | 0.0          | 0.0          | 0.0          | 0.0          | 0.0          |
| LAND & STRUCTURES      | 0.0          | 0.0          | 0.0          | 0.0          | 0.0          | 0.0          |
| GRANTS, CLAIMS         | 200.0        | 350.0        | 450.0        | 500.0        | 600.0        | 600.0        |
| MISCELLANEOUS          |              |              |              |              |              |              |
| <b>TOTAL OPERATING</b> | <b>451.8</b> | <b>528.8</b> | <b>628.8</b> | <b>678.8</b> | <b>778.8</b> | <b>778.8</b> |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

|                        |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES ( ) |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|

FUND SOURCE:

(Thousands of Dollars)

|                          |       |       |       |       |       |       |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 1002 Federal Receipts    |       |       |       |       |       |       |
| 1003 GF Match            |       |       |       |       |       |       |
| 1004 GF                  | 451.8 | 528.8 | 628.8 | 678.8 | 778.8 | 778.8 |
| 1005 GF/Program Receipts |       |       |       |       |       |       |
| 1037 GF/Mental Health    |       |       |       |       |       |       |
| OTHER                    |       |       |       |       |       |       |
| <b>TOTAL</b>             |       |       |       |       |       |       |

Estimate of any current year (FY 97) cost: \$ \_\_\_\_\_

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary) This fiscal note would allow the Board to hire the executive director (Range 20, Social Services Program Coordinator, \$68,300) as authorized in the legislation, and the remaining \$85,000 in personal services would bring three existing PFT positions from 30 hours/week per person to actually working full time. (Existing staff include a Social Worker IV (R 15), a social Worker II (R 14), and an Administrative Clerk III (R 10)). The travel funds will allow the newly appointed statewide Board to meet twice a year face to face, and fund travel by staff and board members to all judicial districts to offer start-up training to volunteer citizens who wish to serve on local review panels. The contractual funds will purchase the additional telephone, teleconference, printing and other charges needed to support the state Board and communication with all the local panels. In addition, contractual funds will be used to fund one-time contracts for regulations writing and review, for the preparation of policies and procedures, and for curriculum and training materials development. An increase in supplies to support additional training materials and start-up costs is included. A one-time purchase of furniture, computer equipment and software for the new executive director, and computer/software and communications upgrades for all staff are included in the equipment line. Funds are included in the grants line for grants to local nonprofit agencies to support the work of the local volunteer panels, to help panel members gather information about cases, arrange and coordinate case review hearings/witness notification/etc. (continued on page 2)

Prepared by Connie J. Sipe  
Division Senior Services

Phone 907-563-5054  
Date April 7, 1997

Approved by Commissioner Mark Boyer  
Agency Department of Administration

Alison M. Elger  
Date 4/9/97

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 127

1997 LEGISLATIVE SESSION

ANALYSIS: (continued)

and to provide meeting space for the review hearings. In Anchorage alone, a pool of 60-80 active volunteers will be needed to hear all the cases for at least one day every month, and hearings will have to be held about 20 days per month to accommodate the need.

The first year, grants will be made to one agency in Anchorage and in Fairbanks. In the second year, the Fairbanks grant would be expanded, and a start-up grant would be awarded in the Southeast Judicial District. In year three, funds would be used for full implementation in the Southeast Judicial District, and in subsequent years would allow for expansion to the remainder of the state.

CS FOR HOUSE BILL NO. 127(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the citizen review board and panels for permanency planning  
2 for certain children in state custody; renaming the Citizens' Review Panel for  
3 Permanency Planning as the Citizens' Foster Care Review Board; extending the  
4 termination date of the Citizens' Foster Care Review Board; relating to disclosures  
5 about certain minors; and providing for an effective date."

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

7 \* Section 1. AS 44.66.010(17) is amended to read:

8 (17) Citizens' Foster Care Review Board [PANEL FOR  
9 PERMANENCY PLANNING] under AS 47.14.200 -- June 30, 2000 [1997];

10 \* Sec. 2. AS 47.10.080(m) is amended to read:

11 (m) Within 60 days after the date a child is removed from the child's home  
12 by the department, the department shall notify the Citizens Foster Care Review  
13 Board [APPROPRIATE LOCAL CITIZEN OUT-OF-HOME CARE REVIEW

1 PANEL] established in AS 47.14.200 [UNDER AS 47.14.220].

2 \* Sec. 3. AS 47.10.080(n) is amended to read:

3 (n) Within 60 days after a court orders a child committed to the department  
4 under (c) of this section and at a review under (f) or (l) of this section, the department  
5 shall inform the parties about the local [CITIZEN OUT-OF-HOME CARE] review  
6 panel established under AS 47.14.220.

7 \* Sec. 4. AS 47.10.093(b) is amended to read:

8 (b) A state or municipal agency or employee may disclose information  
9 regarding a case to

10 (1) a guardian ad litem appointed by the court or to a citizen review  
11 board or local review panel for permanency planning authorized by AS 47.14.200 or  
12 47.14.220;

13 (2) a person or an agency requested to provide consultation or services  
14 for a minor who is subject to the jurisdiction of the court under AS 47.10.010;

15 (3) school officials as may be necessary to protect the safety of the  
16 minor who is the subject of the case and the safety of school students and staff;

17 (4) a governmental agency as may be necessary to obtain that agency's  
18 assistance for the department in its investigation or to obtain physical custody of a  
19 child; and

20 (5) a state or municipal law enforcement agency as may be necessary  
21 for a specific investigation being conducted by that agency or for disclosures by that  
22 agency to protect the public safety.

23 \* Sec. 5. AS 47.10.142(g) is amended to read:

24 (g) Within 60 days after a court orders a child committed to the department  
25 under this section, the department shall inform the parties about the local [CITIZEN  
26 OUT-OF-HOME CARE] review panel established under AS 47.14.220.

27 \* Sec. 6. AS 47.12.120(h) is amended to read:

28 (h) Within 60 days after the date a minor is removed from the minor's home  
29 by the department, the department shall notify the Citizens' Foster Care Review  
30 Board [APPROPRIATE LOCAL CITIZEN OUT-OF-HOME CARE REVIEW  
31 PANEL] established in AS 47.14.200 [UNDER AS 47.14.220].

1 \* Sec. 7. AS 47.12.310(b) is amended to read:

2 (b) A state or municipal agency or employee may disclose information  
3 regarding a case to

4 (1) a guardian ad litem appointed by the court or to a citizen review  
5 board or local review panel for permanency planning authorized by AS 47.14.200 -  
6 47.14.220;

7 (2) a person or an agency requested to provide consultation or services  
8 for a minor who is subject to the jurisdiction of the court under this chapter;

9 (3) school officials as may be necessary to protect the safety of the  
10 minor who is the subject of the case and the safety of school students and staff;

11 (4) a governmental agency as may be necessary to obtain that agency's  
12 assistance for the department in its investigation or to obtain physical custody of a  
13 minor;

14 (5) a state or municipal law enforcement agency as may be necessary  
15 for a specific investigation being conducted by that agency or for disclosures by that  
16 agency to protect the public safety; and

17 (6) a victim as may be necessary to inform the victim about the  
18 disposition or resolution of a case involving a minor.

19 \* Sec. 8. AS 47.14.200(a) is repealed and reenacted to read:

20 (a) There is created in the Department of Administration the Citizens' Foster  
21 Care Review Board. The board consists of nine public members appointed by the  
22 governor from among persons who have training, experience, special knowledge, or  
23 a demonstrated interest in the welfare of children. An out-of-home care provider or  
24 a person employed by the court system, the Department of Health and Social Services,  
25 the office of public advocacy, the Public Defender Agency, or the Department of Law  
26 may not serve as a public member of the board. The governor shall appoint at least  
27 one public member from each judicial district and shall appoint persons who are  
28 reasonably representative of the various social, economic, racial, ethnic, and cultural  
29 groups of the judicial district from which the members are appointed. The governor  
30 may not appoint a person who has committed a felony or violated AS 11.51.130 or a  
31 law with substantially similar elements. The board also includes, as nonvoting

1 members, the following state officials or their designees:

2 (1) the commissioner of health and social services;

3 (2) the director of the office of public advocacy.

4 \* Sec. 9. AS 47.14.200(b) is amended to read:

5 (b) Public [APPOINTED] members of the board [STATE PANEL] serve at  
6 the pleasure of the governor for staggered terms of three years or until their successors  
7 are appointed. These members may not serve more than two consecutive full terms,  
8 except that they may be reappointed to one or two additional consecutive full  
9 terms if they have been off the board for at least three years immediately  
10 preceding the reappointment,

11 \* Sec. 10. AS 47.14.200(c) is amended to read:

12 (c) The voting members of the board [STATE PANEL] shall elect from  
13 among the voting members a chair who shall serve for one year. Five [THREE]  
14 voting members of the board [STATE PANEL] constitute a quorum for the transaction  
15 of business. The board [PANEL] may not take official action without the affirmative  
16 vote of at least three of its voting members.

17 \* Sec. 11. AS 47.14.200(d) is amended to read:

18 (d) Members of the board [STATE PANEL] are entitled to reimbursement for  
19 actual expenses necessary to perform their duties as board [STATE PANEL] members.  
20 The reimbursement may not exceed the amount of per diem and travel expenses  
21 authorized for boards and commissions under AS 39.20.180.

22 \* Sec. 12. AS 47.14.200(e) is amended to read:

23 (e) The board [STATE PANEL] shall meet at least twice annually. Meetings  
24 may take place telephonically.

25 \* Sec. 13. AS 47.14.200(f) is amended to read:

26 (f) The board [STATE PANEL] may employ an executive director [A  
27 PROGRAM COORDINATOR] who shall serve at the pleasure of the board [STATE  
28 PANEL]. The executive director [PROGRAM COORDINATOR] shall employ staff  
29 as necessary to carry out the executive director's [PROGRAM COORDINATOR'S]  
30 duties under board [STATE PANEL] directives and to provide technical [CLERICAL]  
31 assistance to local review panels. The board may delegate duties to the executive

1 director as necessary to assist the board in administering AS 47.14.200 - 47.14.299.

2 \* Sec. 14. AS 47.14.210 is amended to read:

3 Sec. 47.14.210. Powers and duties [DUTIES] of the board [STATE  
4 PANEL]. (a) The board [STATE PANEL] shall

5 (1) hold regular and special meetings the board considers  
6 necessary;

7 (2) adopt regulations necessary [BY REGULATION ADOPT  
8 POLICIES AND PROCEDURES] to carry out its duties and to govern the performance  
9 of the duties of the local review panels established under AS 47.14.220; the  
10 regulations must include provisions that

11 (A) ensure that reviews conducted by local review panels  
12 meet the permanency planning review requirements for state compliance  
13 with 42 U.S.C. 671 - 675;

14 (B) set priorities to be followed by local review panels so  
15 that the cases that have the highest priority for review include cases that  
16 involve children who are likely to be in out-of-home placement for longer  
17 than 90 days, who have been in more than one out-of-home placement,  
18 whose siblings have been in more than one out-of-home placement, or  
19 whose parents' parental rights are likely to be terminated;

20 (C) establish procedures for expedited review of cases  
21 described in (B) of this paragraph; and

22 (D) establish the minimum number of local review panel  
23 members that must review a case and provide for the appointment of  
24 substitute local review panel members to participate in the review of a case  
25 when a member cannot be available due to an emergency;

26 (3) ~~((2))~~ ensure that the public members of the board and of the  
27 local review panels [PANEL MEMBERS] receive the [MINIMUM] level of training  
28 necessary to effectively carry out their duties, document in the board's records that  
29 the public members of local review panels have completed the training, and  
30 ensure that a public member of a local review panel does not review a case until  
31 training has been received;

1                   (4) [(3)] coordinate and review the activities of the local review panels;  
 2                   (5) apply for private and federal grants and solicit contributions,  
 3                   gifts, and bequests to administer and implement AS 47.14.200 - 47.14.299;

4                   (6) award grants or contracts from available money to local  
 5                   governmental or public or private nonprofit agencies to provide assistance to the  
 6                   state board and local review panels, to support their activities, and to carry out  
 7                   projects or studies related to improving the system for permanency needs of  
 8                   children in state foster care;

9                   (7) use board staff to evaluate applicants for public members of  
 10                   local review panels and to provide training to local review panel members [AND  
 11                   MAKE RECOMMENDATIONS TO THE GOVERNOR ON APPOINTMENTS TO  
 12                   THE LOCAL PANELS];

13                   (8) [(4)] prepare a report annually, by the 10th day of each regular  
 14                   session of the legislature, concerning the activities of the state board and the local  
 15                   review panels during the previous fiscal year; the report must include the number of  
 16                   cases reviewed by each local review panel, a description of the characteristics of the  
 17                   children whose cases were reviewed by the local review panels, the number of  
 18                   children reunited with their families, the number of children placed in other permanent  
 19                   homes, systemic barriers to achieving permanency for children, and  
 20                   recommendations and justifications for [PROGRAM] improvement in services and  
 21                   programs provided to children, including recommendations relating to state agencies  
 22                   and to the panel review system; the report may contain other information on the  
 23                   experience of the local review panels; the board [STATE PANEL] shall provide the  
 24                   governor and [NOTIFY] the legislature with [THAT] the report [IS AVAILABLE].

25                   \* Sec. 15. AS 47.14.210 is amended by adding a new subsection to read:

26                   (b) The board may by regulation require the department to provide to the  
 27                   board or to a local review panel aggregate data about the permanency planning system  
 28                   and information about particular cases that is not required under AS 47.14.240. The  
 29                   department shall provide the data and information requested under these regulations.

30                   \* Sec. 16. AS 47.14.220 is amended to read:

31                   Sec. 47.14.220. Appointment of local review panels. (a) Except as

1 provided in regulations adopted under AS 47.14.210(a)(2)(D) relating to  
 2 substitutes, the board [THE GOVERNOR] shall appoint for each judicial district at  
 3 least [A LOCAL CITIZEN OUT-OF-HOME CARE REVIEW PANEL COMPOSED  
 4 OF] five persons available to serve as public members on local review panels [AND  
 5 TWO ALTERNATES] who are residents of the judicial district. Public members  
 6 [MEMBERS] shall serve staggered [THREE-YEAR] terms of three years or until  
 7 their successors are [EXCEPT THAT, WHEN A LOCAL PANEL IS INITIALLY]  
 8 appointed. Public members may not serve more than two consecutive full terms,  
 9 except that, after being off all panels for at least three years, a member may be  
 10 reappointed to one or two consecutive full terms [, TWO MEMBERS SHALL BE  
 11 APPOINTED FOR THREE-YEAR TERMS, TWO MEMBERS FOR TWO-YEAR  
 12 TERMS, AND ONE MEMBER FOR A ONE-YEAR TERM. ALTERNATES SHALL  
 13 BE APPOINTED TO THREE-YEAR TERMS].

14 (b) The board [GOVERNOR] shall appoint as public members [TO A  
 15 LOCAL PANEL] persons who have training, experience, special knowledge, or a  
 16 demonstrated interest in the welfare of children. An out-of-home care provider or a  
 17 person employed by the court system, the department, the office of public advocacy,  
 18 the Public Defender Agency, or the Department of Law may not serve as a public  
 19 member [OR ALTERNATE MEMBER] of a local review panel. The board  
 20 [GOVERNOR] may not appoint a person who has committed a felony or violated  
 21 AS 11.51.130 or a law with substantially similar elements.

22 (c) The public members [COMPOSITION] of a local review panel must be  
 23 reasonably representative of the various social, economic, racial, ethnic, and cultural  
 24 groups of the district from which the members are appointed.

25 (d) If the board [STATE PANEL] determines that additional public members  
 26 [LOCAL PANELS] are necessary in a judicial district because of excessively large or  
 27 complex caseloads for review or because of the demographics of cases [, OR  
 28 DETERMINES THAT A LOCAL PANEL IS NOT NECESSARY BECAUSE OF A  
 29 REDUCED CASELOAD], the board [GOVERNOR] may appoint additional public  
 30 members [CREATE OR DISSOLVE A LOCAL PANEL. THE GOVERNOR MAY  
 31 NOT REDUCE THE NUMBER OF PANELS IN A JUDICIAL DISTRICT TO

1 FEWER THAN ONE). Appointments of public members [TO A PANEL  
2 ESTABLISHED] under this subsection are governed by (a) - (c) of this section.  
3 Public members serve on the panel at the pleasure of the board.

4 (c) When a person is appointed to serve as a public member on a local  
5 review panel, the person shall swear or affirm in writing to keep confidential all  
6 information that comes before the local review panel except for nonidentifying case  
7 information included in a report to the state board [PANEL], information for reports  
8 required under AS 47.17, or as required by court order for good cause shown. A  
9 public member of a local review panel [MEMBER] may also share confidential  
10 information, on a need to know basis, with other members of the local review panel,  
11 the board, and the staff who serve the board or local review panel.

12 \* Sec. 17. AS 47.14.230(a) is amended to read:

13 (a) A local review panel shall conduct its meetings in the judicial district in  
14 which its public members reside.

15 \* Sec. 18. AS 47.14.230(d) is amended to read:

16 (d) A public member of a local review panel [MEMBER] is not eligible for  
17 travel expenses, per diem, or other expenses for service on the local review panel  
18 unless the state board [PANEL] requires the public [A LOCAL PANEL] member to  
19 travel to attend a meeting. If the state board [PANEL] requires a public member of  
20 a local review panel [MEMBER] to travel to attend a meeting, the public [LOCAL  
21 PANEL] member is entitled to reimbursement for actual expenses incurred by the  
22 member in attending the meeting, except that the reimbursement may not exceed the  
23 amount of per diem and travel expenses authorized for boards and commissions under  
24 AS 39.20.180.

25 \* Sec. 19. AS 47.14.240 is amended to read:

26 Sec. 47.14.240. Duties of local review panel. (a) A local review panel shall  
27 review the case plan of each child in the custody of the department who is in a  
28 placement other than the child's own home under AS 47.10.080(c)(1) or (3),  
29 47.10.142, [AS 47.12.120(b)(3),] or AS 47.14.100(c) if the case is under the  
30 jurisdiction of a court in the judicial district served by the local review panel. A local  
31 review panel may request a local review panel in another judicial district to conduct

1 a review and make a report if that local review panel is more convenient for the child  
2 and other persons involved.

3 (b) The local review panel shall review a case as required under 42 U.S.C. 671  
4 - 675 (P.L. 96-272) within 90 [180] days after the day the child is initially removed  
5 from the child's home for a case that is determined under the board's regulations  
6 to be of highest priority and within 180 days after the child is initially removed  
7 for other cases and every six months after the date of the first court hearing on the  
8 child's case [THEREAFTER]. A court review may be substituted for a review  
9 required under this subsection if the court review meets the requirements of this  
10 subsection.

11 (c) At least 30 days before the local review panel [IT] begins a review, or  
12 as soon as practicable, the local review panel or the state board shall provide  
13 written notice to the following persons that a review will be conducted and that each  
14 person notified may participate in the review:

- 15 (1) the appropriate employees of the department;
- 16 (2) the child or the child's legal representative;
- 17 (3) the child's parents;
- 18 (4) the child's guardian;
- 19 (5) the child's guardian ad litem;
- 20 (6) the child's out-of-home care provider; and
- 21 (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child

22 Welfare Act),

23 (A) the child's Indian custodian; and

24 (B) the designated representative of the child's Indian tribe if  
25 the tribe has intervened in the court case.

26 (d) In reviewing a case, the local review panel shall consider the case plan and  
27 any progress report of the department or the child's guardian ad litem, court records,  
28 and other relevant information about the child and the child's family. The local panel  
29 shall [ALSO] provide to the following persons an opportunity to be interviewed by the  
30 local review panel in person or by telephone or to provide written material to the local  
31 review panel:

- 1 (1) the child whose case is being reviewed if the child is 10 years of  
 2 age or older;
- 3 (2) the parents, custodians, or other relatives of the child;
- 4 (3) the child's out-of-home care provider;
- 5 (4) the child's guardian;
- 6 (5) the child's guardian ad litem;
- 7 (6) the case worker or social worker assigned to the case;
- 8 (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child  
 9 Welfare Act),

10 (A) the child's Indian custodian; and

11 (B) the designated representative of the child's Indian tribe if  
 12 the tribe has intervened in the court case; and

13 (8) other persons with a close personal knowledge of the case.

14 (e) At the discretion of the child's guardian ad litem, if the child whose case  
 15 is being reviewed is under 10 years of age, the child may be present at interviews  
 16 conducted under (d) of this section and during review by the local review panel [,] or  
 17 may be interviewed. At the child's request, a child who is 10 years of age or older  
 18 shall be allowed to be present at interviews or a review of the local review panel that  
 19 concerns the child's case unless the panel determines that for good cause the child's  
 20 presence would be contrary to the best interests of the child or there is other good  
 21 cause for denying the child's request.

22 (f) During a review under (a) of this section, a local review panel shall

23 (1) determine whether the child has a case plan designed to achieve  
 24 placement in the least restrictive, most family-like setting available in close proximity  
 25 to the home of the child's parents that is consistent with the best interests [OF] and  
 26 special needs and circumstances of the child;

27 (2) evaluate the continuing necessity and appropriateness of the child's  
 28 placement, the extent of the compliance with the child's case plan, and the extent of  
 29 progress that has been made toward mitigating the causes that necessitated placement  
 30 away from the child's parents;

31 (3) ascertain the date by which it is likely the child may be returned

1 to the home or placed for adoption or legal guardianship;

2 (4) determine whether there has been compliance with applicable  
3 provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act) and other applicable  
4 state and federal laws; and

5 (5) determine whether there has been compliance with court review  
6 requirements of AS 47.10.080(f) and (l) and [,] 47.10.142(h) [, AND AS 47.12.120(d)  
7 AND (g)].

8 (g) The local review panel shall within 15 working [30] days after reviewing  
9 the case submit a written report to the persons listed in (c) of this section.

10 (h) The report required under (g) of this section must make advisory  
11 recommendations based on the best interests of the child in accordance with  
12 AS 47.10.082 and must include notification of the right to request court review under  
13 AS 47.10.080(f) [OR AS 47.12.120(d), AS APPROPRIATE]. If the court has  
14 scheduled the case for review, the local review panel shall submit its report at least  
15 20 days before the hearing.

16 (i) The local review panel shall report to the state board [PANEL] information  
17 needed by the state board [PANEL] to prepare the report required under  
18 AS 47.14.210.

19 • Sec. 20. AS 47.14.250 is amended to read:

20 Sec. 47.14.250. Cooperation with state board and local review panels. The  
21 department, Department of Law, other departments of the executive branch, public  
22 defender, office of public advocacy, and court system shall cooperate with the state  
23 board [PANEL] and the local review panels to facilitate timely review of plans for  
24 children whose cases are reviewed under AS 47.14.200 - 47.14.299. The duty of  
25 executive branch agencies to cooperate under this section extends to the provision  
26 of addresses and other information necessary for a local panel to locate a person  
27 entitled to participate in a review under AS 47.14.240(c) or (d) if the addresses  
28 and other information may be disclosed by the agency to the department for  
29 conducting its child protection and child placement duties under this title  
30 notwithstanding that providing the addresses or other information to entities  
31 other than the department may be prohibited under other laws relating to those

1            agencies [THE JURISDICTION OF THE PANELS].

2            \* Sec. 21. AS 47.14.250 is amended by adding a new subsection to read:

3                    (b) The department shall cooperate and consult with the state board in the  
4                    development of departmental information systems relating to children in out-of-home  
5                    placements whose cases are subject to review by local review panels. The department  
6                    shall develop information systems that ensure that aggregate data and individual case  
7                    information needed by the state board and the local review panels for the performance  
8                    of their duties are readily available from all of the department's information systems.

9            \* Sec. 22. AS 47.14.260 is amended to read:

10                    Sec. 47.14.260.    Records: communications.    (a)    Notwithstanding  
11                    AS 47.10.090 and [,] 47.10.093 [, AS 47.12.300, and 47.12.310], at the request of a  
12                    local review panel, the department, a municipality, the child's guardian ad litem, and  
13                    the court shall furnish to the local review panel relevant records concerning a child  
14                    and the child's family who are the subjects of a local panel review. At the conclusion  
15                    of a review, all copies of records provided to a local review panel under this section  
16                    shall be returned to the staff that serves the local review panel or to the agency from  
17                    which the original copy was obtained unless the local review panel members need the  
18                    copies to prepare the reports required under AS 47.14.240(g) - (i). Copies retained for  
19                    preparation of the reports shall be returned to the staff that serves the local review  
20                    panel or to the originating agency upon completion of the reports. Notwithstanding  
21                    AS 44.62.310, records and reports of the local review panel, testimony before the local  
22                    review panel, and deliberations of the local review panel are confidential under  
23                    AS 47.10.090 [AND AS 47.12.310].

24                    (b) A public member of a local review panel [MEMBER] may not reveal to  
25                    another person, other than another member of the local review panel or the staff  
26                    serving the local review panel, a communication made to the member while  
27                    performing the member's duties under AS 47.14.200 - 47.14.299 except as required  
28                    under AS 47.17 or as required by court order for good cause shown. A public  
29                    member of a local review panel [MEMBER] may share with the state board  
30                    [PANEL] communications made during the public [LOCAL PANEL] member's  
31                    performance of official duties if the public [LOCAL PANEL] member omits

1 identifying information.

2 (c) A local review panel proceeding is not governed by AS 44.62.310.

3 \* Sec. 23. AS 47.14.270 is repealed and reenacted to read:

4 Sec. 47.14.270. Court review of report. (a) The local review panel shall  
5 submit its final report to the court to aid the court in its review of temporary custody  
6 orders issued under AS 47.10.142 and in its dispositional hearings and reviews under  
7 AS 47.10.080 and 47.10.083.

8 (b) The court may refer to the board for assignment to a local review panel a  
9 case called for a special review under AS 47.10.080(f), as appropriate.

10 \* Sec. 24. AS 47.14.280 is amended to read:

11 Sec. 47.14.280. Immunity [INDEMNIFICATION] of board and panel  
12 members and staff. A state board [PANEL] member, [AND] a local review panel  
13 member, and a person serving as staff to the state board or a local review panel  
14 shall be immune from [INDEMNIFIED BY THE STATE FOR] civil liability for a  
15 negligent act or omission of the board or panel member or a person serving as staff  
16 to the board or a local review panel that occurs in the performance of the member's  
17 or person's duties under AS 47.14.200 - 47.14.299 unless the civil liability results  
18 from the board or panel member's or other person's gross negligence or violation  
19 of

20 (1) AS 47.14.260(b); or

21 (2) the oath or affirmation required under AS 47.14.220(e).

22 \* Sec. 25. AS 47.14.299 is amended to read:

23 Sec. 47.14.299. Definitions. In AS 47.14.200 - 47.14.299,

24 (1) "board" means the state board;

25 (2) "department" means the Department of Health and Social  
26 Services;

27 (3) [(1)] "local review panel" means a local [CITIZEN OUT-OF-  
28 HOME CARE] review panel appointed under AS 47.14.220;

29 (4) [(2)] "out-of-home care provider" means an agency or person, other  
30 than the child's legal parents, with whom a child who is in the custody of the state  
31 under AS 47.10.080(c)(1) or (3), 47.10.142, [AS 47.12.120(b)(3),] or AS 47.14.100(c)

1 is currently placed; in this paragraph, "agency or person" includes a foster parent, a  
 2 relative other than a parent, a person who has petitioned for adoption of the child, and  
 3 a residential child care facility;

4 (5) "panel" means a local review panel;

5 (6) [(3)] "state board [PANEL]" means the Citizens' Foster Care  
 6 Review Board [PANEL FOR PERMANENCY PLANNING] established in [UNDER]  
 7 AS 47.14.200.

8 \* Sec. 26. AS 47.14.230(b) and 47.14.230(c) are repealed.

9 \* Sec. 27. TRANSITION. (a) Notwithstanding secs. 1 - 26 of this Act, the commissioner  
 10 of administration may phase in implementation of this Act. Local review panels shall begin  
 11 hearing all cases covered by this Act in Anchorage as soon as possible. Subject to  
 12 appropriations, local review panels shall be implemented in the remainder of the state as soon  
 13 as practicable.

14 (b) To the maximum extent for which appropriations are available, local review panels  
 15 shall be in place in all judicial districts no later than 24 months after the effective date of this  
 16 Act.

17 \* Sec. 28. This Act takes effect immediately under AS 01.10.070(c).

O-LS0496\H  
Lauterbach  
4/9/97

**CS FOR HOUSE BILL NO. 127(HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

Offered:  
Referred:

Sponsor(s): **HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the citizen review board and panels for permanency planning  
2 for certain children in state custody; renaming the Citizens' Review Panel for  
3 Permanency Planning as the Citizens' Foster Care Review Board; extending the  
4 termination date of the Citizens' Foster Care Review Board; relating to disclosures  
5 about certain minors; and providing for an effective date."

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

7 • Section 1. AS 44.66.010(17) is amended to read:

8 (17) Citizens' Foster Care Review Board [PANEL FOR  
9 PERMANENCY PLANNING] under AS 47.14.200 -- June 30, 2000 [1997];

10 • Sec. 2. AS 47.10.080(m) is amended to read:

11 (m) Within 60 days after the date a child is removed from the child's home  
12 by the department, the department shall notify the Citizens Foster Care Review  
13 Board [APPROPRIATE LOCAL CITIZEN OUT-OF-HOME CARE REVIEW

1 PANEL] established in AS 47.14.200 [UNDER AS 47.14.220].

2 \* Sec. 3. AS 47.10.080(n) is amended to read:

3 (n) Within 60 days after a court orders a child committed to the department  
4 under (c) of this section and at a review under (f) or (l) of this section, the department  
5 shall inform the parties about the local [CITIZEN OUT-OF-HOME CARE] review  
6 panel established under AS 47.14.220.

7 \* Sec. 4. AS 47.10.093(b) is amended to read:

8 (b) A state or municipal agency or employee may disclose information  
9 regarding a case to

10 (1) a guardian ad litem appointed by the court or to a citizen review  
11 board or local review panel for permanency planning authorized by AS 47.14.200 or  
12 47.14.220;

13 (2) a person or an agency requested to provide consultation or services  
14 for a minor who is subject to the jurisdiction of the court under AS 47.10.010;

15 (3) school officials as may be necessary to protect the safety of the  
16 minor who is the subject of the case and the safety of school students and staff;

17 (4) a governmental agency as may be necessary to obtain that agency's  
18 assistance for the department in its investigation or to obtain physical custody of a  
19 child; and

20 (5) a state or municipal law enforcement agency as may be necessary  
21 for a specific investigation being conducted by that agency or for disclosures by that  
22 agency to protect the public safety.

23 \* Sec. 5. AS 47.10.142(g) is amended to read:

24 (g) Within 60 days after a court orders a child committed to the department  
25 under this section, the department shall inform the parties about the local [CITIZEN  
26 OUT-OF-HOME CARE] review panel established under AS 47.14.220.

27 \* Sec. 6. AS 47.12.120(h) is amended to read:

28 (h) Within 60 days after the date a minor is removed from the minor's home  
29 by the department, the department shall notify the Citizens' Foster Care Review  
30 Board [APPROPRIATE LOCAL CITIZEN OUT-OF-HOME CARE REVIEW  
31 PANEL] established in AS 47.14.200 [UNDER AS 47.14.220].

1 \* Sec. 7. AS 47.12.310(b) is amended to read:

2 (b) A state or municipal agency or employee may disclose information  
3 regarding a case to

4 (1) a guardian ad litem appointed by the court or to a citizen review  
5 board or local review panel for permanency planning authorized by AS 47.14.200 -  
6 47.14.220;

7 (2) a person or an agency requested to provide consultation or services  
8 for a minor who is subject to the jurisdiction of the court under this chapter;

9 (3) school officials as may be necessary to protect the safety of the  
10 minor who is the subject of the case and the safety of school students and staff;

11 (4) a governmental agency as may be necessary to obtain that agency's  
12 assistance for the department in its investigation or to obtain physical custody of a  
13 minor;

14 (5) a state or municipal law enforcement agency as may be necessary  
15 for a specific investigation being conducted by that agency or for disclosures by that  
16 agency to protect the public safety; and

17 (6) a victim as may be necessary to inform the victim about the  
18 disposition or resolution of a case involving a minor.

19 \* Sec. 8. AS 47.14.200(a) is repealed and reenacted to read:

20 (a) There is created in the Department of Administration the Citizens' Foster  
21 Care Review Board. The board consists of nine public members appointed by the  
22 governor from among persons who have training, experience, special knowledge, or  
23 a demonstrated interest in the welfare of children. An out-of-home care provider or  
24 a person employed by the court system, the Department of Health and Social Services,  
25 the office of public advocacy, the Public Defender Agency, or the Department of Law  
26 may not serve as a public member of the board. The governor shall appoint at least  
27 one public member from each judicial district and shall appoint persons who are  
28 reasonably representative of the various social, economic, racial, ethnic, and cultural  
29 groups of the judicial district from which the members are appointed. The governor  
30 may not appoint a person who has committed a felony or violated AS 11.51.130 or a  
31 law with substantially similar elements. The board also includes, as nonvoting

1 members, the following state officials or their designees:

2 (1) the commissioner of health and social services;

3 (2) the director of the office of public advocacy;

4 (3) the attorney general;

5 (4) the public defender appointed under AS 18.85.030.

6 \* Sec. 9. AS 47.14.200(b) is amended to read:

7 (b) Public [APPOINTED] members of the board [STATE PANEL] serve at  
8 the pleasure of the governor for staggered terms of three years or until their successors  
9 are appointed. These members may not serve more than two consecutive full terms,  
10 except that they may be reappointed to one or two additional consecutive full  
11 terms if they have been off the board for at least three years immediately  
12 preceding the reappointment.

13 \* Sec. 10. AS 47.14.200(c) is amended to read:

14 (c) The voting members of the board [STATE PANEL] shall elect from  
15 among the voting members a chair who shall serve for one year. Five [THREE]  
16 voting members of the board [STATE PANEL] constitute a quorum for the transaction  
17 of business. The board [PANEL] may not take official action without the affirmative  
18 vote of at least three of its voting members.

19 \* Sec. 11. AS 47.14.200(d) is amended to read:

20 (d) Members of the board [STATE PANEL] are entitled to reimbursement for  
21 actual expenses necessary to perform their duties as board [STATE PANEL] members.  
22 The reimbursement may not exceed the amount of per diem and travel expenses  
23 authorized for boards and commissions under AS 39.20.180.

24 \* Sec. 12. AS 47.14.200(e) is amended to read:

25 (e) The board [STATE PANEL] shall meet at least twice annually. Meetings  
26 may take place telephonically.

27 \* Sec. 13. AS 47.14.200(f) is amended to read:

28 (f) The board [STATE PANEL] may employ an executive director [A  
29 PROGRAM COORDINATOR] who shall serve at the pleasure of the board [STATE  
30 PANEL]. The executive director [PROGRAM COORDINATOR] shall employ staff  
31 as necessary to carry out the executive director's [PROGRAM COORDINATOR'S]

1 duties under hoard [STATE PANEL] directives and to provide technical [CLERICAL]  
2 assistance to local review panels. The hoard may delegate duties to the executive  
3 director as necessary to assist the board in administering AS 47.14.200 - 47.14.299.

4 \* Sec. 14. AS 47.14.210 is amended to read:

5 Sec. 47.14.210. Powers and duties [DUTIES] of the board [STATE  
6 PANEL]. (a) The board [STATE PANEL] shall

7 (1) hold regular and special meetings the board considers  
8 necessary;

9 (2) adopt regulations necessary [BY REGULATION ADOPT  
10 POLICIES AND PROCEDURES] to carry out its duties and to govern the performance  
11 of the duties of the local review panels established under AS 47.14.220; the  
12 regulations must include provisions that

13 (A) ensure that reviews conducted by local review panels  
14 meet the permanency planning review requirements for state compliance  
15 with 42 U.S.C. 671 - 675;

16 (B) set priorities to be followed by local review panels so  
17 that the cases that have the highest priority for review include cases that  
18 involve children who are likely to be in out-of-home placement for longer  
19 than 90 days, who have been in more than one out-of-home placement,  
20 whose siblings have been in more than one out-of-home placement, or  
21 whose parents' parental rights are likely to be terminated;

22 (C) establish procedures for expedited review of cases  
23 described in (B) of this paragraph; and

24 (D) establish the minimum number of local review panel  
25 members that must review a case and provide for the appointment of  
26 substitute local review panel members to participate in the review of a case  
27 when a member cannot be available due to an emergency;

28 (3) [(2)] ensure that the public members of the board and of the  
29 local review panels [PANEL MEMBERS] receive the [MINIMUM] level of training  
30 necessary to effectively carry out their duties, document in the board's records that  
31 the public members of local review panels have completed the training, and

1 ensure that a public member of a local review panel does not review a case until  
2 training has been received;

3 (4) [(3)] coordinate and review the activities of the local review panels;

4 (5) apply for private and federal grants and solicit contributions,  
5 gifts, and bequests to administer and implement AS 47.14.200 - 47.14.299;

6 (6) award grants or contracts from available money to local  
7 governmental or public or private nonprofit agencies to provide assistance to the  
8 state board and local review panels, to support their activities, and to carry out  
9 projects or studies related to improving the system for permanency needs of  
10 children in state foster care;

11 (7) use board staff to evaluate applicants for public members of  
12 local review panels and to provide training to local review panel members [AND  
13 MAKE RECOMMENDATIONS TO THE GOVERNOR ON APPOINTMENTS TO  
14 THE LOCAL PANELS];

15 (8) [(4)] prepare a report annually, by the 10th day of each regular  
16 session of the legislature, concerning the activities of the state board and the local  
17 review panels during the previous fiscal year; the report must include the number of  
18 cases reviewed by each local review panel, a description of the characteristics of the  
19 children whose cases were reviewed by the local review panels, the number of  
20 children reunited with their families, the number of children placed in other permanent  
21 homes, systemic barriers to achieving permanency for children, and  
22 recommendations and justifications for [PROGRAM] improvement in services and  
23 programs provided to children, including recommendations relating to state agencies  
24 and to the panel review system; the report may contain other information on the  
25 experience of the local review panels; the board [STATE PANEL] shall provide the  
26 governor and [NOTIFY] the legislature with [THAT] the report [IS AVAILABLE].

27 • Sec. 15. AS 47.14.210 is amended by adding a new subsection to read:

28 (b) The board may by regulation require the department to provide to the  
29 board or to a local review panel aggregate data about the permanency planning system  
30 and information about particular cases that is not required under AS 47.14.240. The  
31 department shall provide the data and information requested under these regulations.

1 \* Sec. 16. AS 47.14.220 is amended to read:

2 Sec. 47.14.220. Appointment of local review panels. (a) Except as  
3 provided in regulations adopted under AS 47.14.210(a)(2)(D) relating to  
4 substitutes, the board [THE GOVERNOR] shall appoint for each judicial district at  
5 least [A LOCAL CITIZEN OUT-OF-HOME CARE REVIEW PANEL COMPOSED  
6 OF] five persons available to serve as public members on local review panels [AND  
7 TWO ALTERNATES] who are residents of the judicial district. Public members  
8 [MEMBERS] shall serve staggered [THREE-YEAR] terms of three years or until  
9 their successors are [EXCEPT THAT, WHEN A LOCAL PANEL IS INITIALLY]  
10 appointed. Public members may not serve more than two consecutive full terms,  
11 except that, after being off all panels for at least three years, a member may be  
12 reappointed to one or two consecutive full terms [, TWO MEMBERS SHALL BE  
13 APPOINTED FOR THREE-YEAR TERMS, TWO MEMBERS FOR TWO-YEAR  
14 TERMS, AND ONE MEMBER FOR A ONE-YEAR TERM. ALTERNATES SHALL  
15 BE APPOINTED TO THREE-YEAR TERMS].

16 (b) The board [GOVERNOR] shall appoint as public members [TO A  
17 LOCAL PANEL] persons who have training, experience, special knowledge, or a  
18 demonstrated interest in the welfare of children. An out-of-home care provider or a  
19 person employed by the court system, the department, the office of public advocacy,  
20 the Public Defender Agency, or the Department of Law may not serve as a public  
21 member [OR ALTERNATE MEMBER] of a local review panel. The board  
22 [GOVERNOR] may not appoint a person who has committed a felony or violated  
23 AS 11.51.130 or a law with substantially similar elements.

24 (c) The public members [COMPOSITION] of a local review panel must be  
25 reasonably representative of the various social, economic, racial, ethnic, and cultural  
26 groups of the district from which the members are appointed.

27 (d) If the board [STATE PANEL] determines that additional public members  
28 [LOCAL PANELS] are necessary in a judicial district because of excessively large or  
29 complex caseloads for review or because of the demographics of cases [, OR  
30 DETERMINES THAT A LOCAL PANEL IS NOT NECESSARY BECAUSE OF A  
31 REDUCED CASELOAD], the board [GOVERNOR] may appoint additional public

1 members [CREATE OR DISSOLVE A LOCAL PANEL. THE GOVERNOR MAY  
2 NOT REDUCE THE NUMBER OF PANELS IN A JUDICIAL DISTRICT TO  
3 FEWER THAN ONE]. Appointments of public members [TO A PANEL  
4 ESTABLISHED] under this subsection are governed by (a) - (c) of this section.  
5 Public members serve on the panel at the pleasure of the board.

6 (c) When a person is appointed to serve as a public member on a local  
7 review panel, the person shall swear or affirm in writing to keep confidential all  
8 information that comes before the local review panel except for nonidentifying case  
9 information included in a report to the state board [PANEL], information for reports  
10 required under AS 47.17, or as required by court order for good cause shown. A  
11 public member of a local review panel [MEMBER] may also share confidential  
12 information, on a need to know basis, with other members of the local review panel,  
13 the board, and the staff who serve the board or local review panel.

14 \* Sec. 17. AS 47.14.230(a) is amended to read:

15 (a) A local review panel shall conduct its meetings in the judicial district in  
16 which its public members reside.

17 \* Sec. 18. AS 47.14.230(d) is amended to read:

18 (d) A public member of a local review panel [MEMBER] is not eligible for  
19 travel expenses, per diem, or other expenses for service on the local review panel  
20 unless the state board [PANEL] requires the public [A LOCAL PANEL] member to  
21 travel to attend a meeting. If the state board [PANEL] requires a public member of  
22 a local review panel [MEMBER] to travel to attend a meeting, the public [LOCAL  
23 PANEL] member is entitled to reimbursement for actual expenses incurred by the  
24 member in attending the meeting, except that the reimbursement may not exceed the  
25 amount of per diem and travel expenses authorized for boards and commissions under  
26 AS 39.20.180.

27 \* Sec. 19. AS 47.14.240 is amended to read:

28 Sec. 47.14.240. Duties of local review panel. (a) A local review panel shall  
29 review the case plan of each child in the custody of the department who is in a  
30 placement other than the child's own home under AS 47.10.080(c)(1) or (3),  
31 47.10.142, [AS 47.12.120(b)(3),] or AS 47.14.100(c) if the case is under the

1 jurisdiction of a court in the judicial district served by the local review panel. A local  
2 review panel may request a local review panel in another judicial district to conduct  
3 a review and make a report if that local review panel is more convenient for the child  
4 and other persons involved.

5 (b) The local review panel shall review a case as required under 42 U.S.C. 671  
6 - 675 (P.L. 96-272) within 90 [180] days after the day the child is initially removed  
7 from the child's home for a case that is determined under the board's regulations  
8 to be of highest priority and within 180 days after the child is initially removed  
9 for other cases and every six months after the date of the first court hearing on the  
10 child's case [THEREAFTER]. A court review may be substituted for a review  
11 required under this subsection if the court review meets the requirements of this  
12 subsection.

13 (c) At least 30 days before the local review panel [IT] begins a review, or  
14 as soon as practicable, the local review panel or the state board shall provide  
15 written notice to the following persons that a review will be conducted and that each  
16 person notified may participate in the review:

- 17 (1) the appropriate employees of the department;
- 18 (2) the child or the child's legal representative;
- 19 (3) the child's parents;
- 20 (4) the child's guardian;
- 21 (5) the child's guardian ad litem;
- 22 (6) the child's out-of-home care provider; and
- 23 (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child  
24 Welfare Act),

25 (A) the child's Indian custodian; and

26 (B) the designated representative of the child's Indian tribe if  
27 the tribe has intervened in the court case.

28 (d) In reviewing a case, the local review panel shall consider the case plan and  
29 any progress report of the department or the child's guardian ad litem, court records,  
30 and other relevant information about the child and the child's family. The local panel  
31 shall [ALSO] provide to the following persons an opportunity to be interviewed by the

1 local review panel in person or by telephone or to provide written material to the local  
2 review panel:

3 (1) the child whose case is being reviewed if the child is 10 years of  
4 age or older;

5 (2) the parents, custodians, or other relatives of the child;

6 (3) the child's out-of-home care provider;

7 (4) the child's guardian;

8 (5) the child's guardian ad litem;

9 (6) the case worker or social worker assigned to the case;

10 (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child  
11 Welfare Act),

12 (A) the child's Indian custodian; and

13 (B) the designated representative of the child's Indian tribe if  
14 the tribe has intervened in the court case; and

15 (8) other persons with a close personal knowledge of the case.

16 (e) At the discretion of the child's guardian ad litem, if the child whose case  
17 is being reviewed is under 10 years of age, the child may be present at interviews  
18 conducted under (d) of this section and during review by the local review panel [.] or  
19 may be interviewed. At the child's request, a child who is 10 years of age or older  
20 shall be allowed to be present at interviews or a review of the local review panel that  
21 concerns the child's case unless the panel determines that for good cause the child's  
22 presence would be contrary to the best interests of the child or there is other good  
23 cause for denying the child's request.

24 (f) During a review under (a) of this section, a local review panel shall

25 (1) determine whether the child has a case plan designed to achieve  
26 placement in the least restrictive, most family-like setting available in close proximity  
27 to the home of the child's parents that is consistent with the best interests [OF] and  
28 special needs and circumstances of the child;

29 (2) evaluate the continuing necessity and appropriateness of the child's  
30 placement, the extent of the compliance with the child's case plan, and the extent of  
31 progress that has been made toward mitigating the causes that necessitated placement

1 away from the child's parents;

2 (3) ascertain the date by which it is likely the child may be returned  
3 to the home or placed for adoption or legal guardianship;

4 (4) determine whether there has been compliance with applicable  
5 provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act) and other applicable  
6 state and federal laws; and

7 (5) determine whether there has been compliance with court review  
8 requirements of AS 47.10.080(f) and (l) and [,] 47.10.142(h) [, AND AS 47.12.120(d)  
9 AND (g)].

10 (g) The local review panel shall within 15 working [30] days after reviewing  
11 the case submit a written report to the persons listed in (c) of this section.

12 (h) The report required under (g) of this section must make advisory  
13 recommendations based on the best interests of the child in accordance with  
14 AS 47.10.082 and must include notification of the right to request court review under  
15 AS 47.10.080(f) [OR AS 47.12.120(d), AS APPROPRIATE]. If the court has  
16 scheduled the case for review, the local review panel shall submit its report at least  
17 20 days before the hearing.

18 (i) The local review panel shall report to the state board [PANEL] information  
19 needed by the state board [PANEL] to prepare the report required under  
20 AS 47.14.210.

21 \* Sec. 20. AS 47.14.250 is amended to read:

22 Sec. 47.14.250. Cooperation with state board and local review panels. The  
23 department, Department of Law, other departments of the executive branch, public  
24 defender, office of public advocacy, and court system shall cooperate with the state  
25 board [PANEL] and the local review panels to facilitate timely review of plans for  
26 children whose cases are reviewed under AS 47.14.200 - 47.14.299. The duty of  
27 executive branch agencies to cooperate under this section extends to the provision  
28 of addresses and other information necessary for a local panel to locate a person  
29 entitled to participate in a review under AS 47.14.240(c) or (d) if the addresses  
30 and other information may be disclosed by the agency to the department for  
31 conducting its child protection and child placement duties under this title

1 notwithstanding that providing the addresses or other information to entities  
2 other than the department may be prohibited under other laws relating to those  
3 agencies [THE JURISDICTION OF THE PANELS].

4 \* Sec. 21. AS 47.14.250 is amended by adding a new subsection to read:

5 (b) The department shall cooperate and consult with the state board in the  
6 development of departmental information systems relating to children in out-of-home  
7 placements whose cases are subject to review by local review panels. The department  
8 shall develop information systems that ensure that aggregate data and individual case  
9 information needed by the state board and the local review panels for the performance  
10 of their duties are readily available from all of the department's information systems.

11 \* Sec. 22. AS 47.14.260 is amended to read:

12 Sec. 47.14.260. Records: communications. (a) Notwithstanding  
13 AS 47.10.090 and [,] 47.10.093 [, AS 47.12.300, and 47.12.310], at the request of a  
14 local review panel, the department, a municipality, the child's guardian ad litem, and  
15 the court shall furnish to the local review panel relevant records concerning a child  
16 and the child's family who are the subjects of a local panel review. At the conclusion  
17 of a review, all copies of records provided to a local review panel under this section  
18 shall be returned to the staff that serves the local review panel or to the agency from  
19 which the original copy was obtained unless the local review panel members need the  
20 copies to prepare the reports required under AS 47.14.240(g) - (i). Copies retained for  
21 preparation of the reports shall be returned to the staff that serves the local review  
22 panel or to the originating agency upon completion of the reports. Notwithstanding  
23 AS 44.62.310, records and reports of the local review panel, testimony before the local  
24 review panel, and deliberations of the local review panel are confidential under  
25 AS 47.10.090 [AND AS 47.12.310].

26 (b) A public member of a local review panel [MEMBER] may not reveal to  
27 another person, other than another member of the local review panel or the staff  
28 serving the local review panel, a communication made to the member while  
29 performing the member's duties under AS 47.14.200 - 47.14.299 except as required  
30 under AS 47.17 or as required by court order for good cause shown. A public  
31 member of a local review panel [MEMBER] may share with the state board

1 [PANEL] communications made during the public [LOCAL PANEL] member's  
 2 performance of official duties if the public [LOCAL PANEL] member omits  
 3 identifying information.

4 (c) A local review panel proceeding is not governed by AS 44.62.310.

5 \* Sec. 23. AS 47.14.270 is repealed and reenacted to read.

6 Sec. 47.14.270. Court review of report. (a) The local review panel shall  
 7 submit its final report to the court to aid the court in its review of temporary custody  
 8 orders issued under AS 47.10.142 and in its dispositional hearings and reviews under  
 9 AS 47.10.080 and 47.10.083.

10 (b) The court may refer to the board for assignment to a local review panel a  
 11 case called for a special review under AS 47.10.080(f), as appropriate.

12 \* Sec. 24. AS 47.14.280 is amended to read:

13 Sec. 47.14.280. Immunity [INDEMNIFICATION] of board and panel  
 14 members and staff. A state board [PANEL] member, [AND] a local review panel  
 15 member, and a person serving as staff to the state board or a local review panel  
 16 shall be immune from [INDEMNIFIED BY THE STATE FOR] civil liability for a  
 17 negligent act or omission of the board or panel member or a person serving as staff  
 18 to the board or a local review panel that occurs in the performance of the member's  
 19 or person's duties under AS 47.14.200 - 47.14.299 unless the civil liability results  
 20 from the board or panel member's or other person's gross negligence or violation  
 21 of

22 (1) AS 47.14.260(b); or

23 (2) the oath or affirmation required under AS 47.14.220(c).

24 \* Sec. 25. AS 47.14.299 is amended to read:

25 Sec. 47.14.299. Definitions. In AS 47.14.200 - 47.14.299,

26 (1) "board" means the state board;

27 (2) "department" means the Department of Health and Social

28 Services;

29 (3) [(1)] "local review panel" means a local [CITIZEN OUT-OF-  
 30 HOME CARE] review panel appointed under AS 47.14.220;

31 (4) [(2)] "out-of-home care provider" means an agency or person, other

1 than the child's legal parents, with whom a child who is in the custody of the state  
2 under AS 47.10.080(c)(1) or (3), 47.10.142, [AS 47.12.120(b)(3),] or AS 47.14.100(c)  
3 is currently placed; in this paragraph, "agency or person" includes a foster parent, a  
4 relative other than a parent, a person who has petitioned for adoption of the child, and  
5 a residential child care facility;

6 (5) "panel" means a local review panel;

7 (6) [(3)] "state board [PANEL]" means the Citizens' Foster Care  
8 Review Board [PANEL FOR PERMANENCY PLANNING] established in [UNDER]  
9 AS 47.14.200.

10 \* Sec. 26. AS 47.14.230(b) and 47.14.230(c) are repealed.

11 \* Sec. 27. TRANSITION. (a) Notwithstanding secs. 1 - 26 of this Act, the commissioner  
12 of administration may phase in implementation of this Act. Local review panels shall begin  
13 hearing all cases covered by this Act in Anchorage as soon as possible. Subject to  
14 appropriations, local review panels shall be implemented in the remainder of the state as soon  
15 as practicable.

16 (b) To the maximum extent for which appropriations are available, local review panels  
17 shall be in place in all judicial districts no later than 24 months after the effective date of this  
18 Act.

19 \* Sec. 28. This Act takes effect immediately under AS 01.10.070(c).

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE PORTER

TO: Draft CSHB 127(HES) ("H" Version)

- 1 Page 4, line 3:
- 2       Delete ";"
- 3       Insert "."
  
- 4 Page 4, lines 4 - 5:
- 5       Delete all material.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
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## MEMORANDUM

March 25, 1997

**SUBJECT:** Sectional Summary of CSHB 127(HES), "F" version. (Foster Care Review System)

**TO:** Representative Con Bunde, Chair  
Health, Education and Social Services Committee  
Attn: Patti Swenson

**FROM:** Terri Lauterbach  
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

In general, this bill renames the Citizens' Review Panel for Permanency Planning as the Citizens' Foster Care Review Board and renames the local citizen out-of-home care review panels as, more simply, local review panels.

Section 1. Reflects the new name for the former Citizens' Review Panel for Permanency Planning and extends its termination date to the year 2000.

Section 2. Requires DHSS to notify the state board, rather than a local panel, about a child that DHSS removes from a home.

Section 3. Reflects the name change for the local panels.

Section 4. Reflects the name changes and adds the "safety of the minor" as a reason for disclosure of otherwise confidential information to school officials.

Section 5. Reflects the name changes.

Section 6. Requires DHSS to notify the state board, rather than a local panel, about a child that DHSS removes from a home.

Section 7. Reflects the name changes and adds the "safety of the minor" as a reason for disclosure of otherwise confidential information to school officials.

Section 8. Renames and reconstitutes the state board for review of foster care.

Section 9. Reflects the new make-up and name of the state board. Allows for reappointment of board members.

Section 10. Sets quorum and voting requirements for the state board.

Section 11. Reflects the name change of the state board.

Section 12. Sets twice yearly meeting requirement as a minimum.

Section 13. Allows the state board to have an executive director to whom the board may delegate its powers.

Section 14. Adds new duties for the state board: to apply for private and federal grants and solicit contributions, to award grants or contracts to carry out projects or studies related to improving the foster care system, and to use board staff or award contracts to evaluate applicants for positions on local review panels and to provide training of board members and local review panel members. Changes the board's reporting requirement so that it must provide its annual report to the legislature rather than just notify the legislature that the report is available. (The legislature recently changed almost all annual reporting requirements to be a notification to the legislature; this change would reverse that decision for this board.)

Section 15. Sets the composition requirements for local review panels.

Section 16. Reflects the name change and new composition of the local review panels.

Section 17. Reflects the name change and new composition of the local review panels.

Section 18. Reflects the name change of the local panels. In subsection (b), changes the review time to 90 days after the child is initially removed from home. In subsection (c), adds a provision to give flexibility to the 30-day notice requirement of current law.

Section 19. Requires other executive branch agencies to disclose confidential information to the local panels to assist them in locating persons entitled to participate in a case review.

Section 20. By deleting references to AS 47.12.300 and 47.12.310 in subsection (a), this section may restrict the review panels' access to delinquency records. However, it may be that the references to AS 47.10.090 and 47.10.093 are considered sufficient to retain that

Representative Con Bunde

March 25, 1997

Page 3

access. I recommend that the committee obtain an explanation from DHSS about the intent of this amendment and clarify the bill as considered necessary.

**Section 21.** Describes the interaction between the court and the local review panels.

**Section 22.** Reflects the name changes for the board and local panels and introduces a new gross negligence standard for their civil liability.

**Section 23.** Changes definitions to reflect the name changes for the board and local panels.

**Section 24.** Repeals subsections of law whose subject matter (quorum and officers) has been added in other parts of the bill.

**Section 25.** Allows phased-in implementation of the bill with full implementation within two years.

**Section 26.** Gives the bill an immediate effective date.

TML:jdr  
97-215.jdr

0-LS0496VF  
Lauterbach  
3/24/97

CS FOR HOUSE BILL NO. 127(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the citizen review board and panels for permanency planning  
 2 for certain children in state custody; renaming the Citizens' Review Panel for  
 3 Permanency Planning as the Citizens' Foster Care Review Board; extending the  
 4 termination date of the Citizens' Foster Care Review Board; relating to disclosures  
 5 about certain minors; and providing for an effective date."

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

7 \* Section 1. AS 44.66.010(17) is amended to read:

8 (17) Citizens' Foster Care Review Board [PANEL FOR  
 9 PERMANENCY PLANNING] under AS 47.14.200 -- June 30, 2000 [1997];

10 \* Sec. 2. AS 47.10.080(m) is amended to read:

11 (m) Within 60 days after the date a child is removed from the child's home  
 12 by the department, the department shall notify the Citizens Foster Care Review  
 13 Board [APPROPRIATE LOCAL CITIZEN OUT-OF-HOME CARE REVIEW

1 PANEL] established in AS 47.14.200 [UNDER AS 47.14.220].

2 \* Sec. 3. AS 47.10.080(n) is amended to read:

3 (n) Within 60 days after a court orders a child committed to the department  
4 under (c) of this section and at a review under (f) or (l) of this section, the department  
5 shall inform the parties about the local [CITIZEN OUT-OF-HOME CARE] review  
6 panel established under AS 47.14.220.

7 \* Sec. 4. AS 47.10.093(b) is amended to read:

8 (b) A state or municipal agency or employee may disclose information  
9 regarding a case to

10 (1) a guardian ad litem appointed by the court or to a citizen review  
11 board or local review panel for permanency planning authorized by AS 47.14.200 or  
12 47.14.220;

13 (2) a person or an agency requested to provide consultation or services  
14 for a minor who is subject to the jurisdiction of the court under AS 47.10.010;

15 (3) school officials as may be necessary to protect the safety of the  
16 minor who is the subject of the case and the safety of school students and staff;

17 (4) a governmental agency as may be necessary to obtain that agency's  
18 assistance for the department in its investigation or to obtain physical custody of a  
19 child; and

20 (5) a state or municipal law enforcement agency as may be necessary  
21 for a specific investigation being conducted by that agency or for disclosures by that  
22 agency to protect the public safety.

23 \* Sec. 5. AS 47.10.142(g) is amended to read:

24 (g) Within 60 days after a court orders a child committed to the department  
25 under this section, the department shall inform the parties about the local [CITIZEN  
26 OUT-OF-HOME CARE] review panel established under AS 47.14.220.

27 \* Sec. 6. AS 47.12.120(h) is amended to read:

28 (h) Within 60 days after the date a minor is removed from the minor's home  
29 by the department, the department shall notify the Citizens' Foster Care Review  
30 Board [APPROPRIATE LOCAL CITIZEN OUT-OF-HOME CARE REVIEW  
31 PANEL] established in AS 47.14.200 [UNDER AS 47.14.220].

1 \* Sec. 7. AS 47.12.310(b) is amended to read:

2 (b) A state or municipal agency or employee may disclose information  
3 regarding a case to

4 (1) a guardian ad litem appointed by the court or to a citizen review  
5 board or local review panel for permanency planning authorized by AS 47.14.200 -  
6 47.14.220;

7 (2) a person or an agency requested to provide consultation or services  
8 for a minor who is subject to the jurisdiction of the court under this chapter;

9 (3) school officials as may be necessary to protect the safety of the  
10 minor who is the subject of the case and the safety of school students and staff;

11 (4) a governmental agency as may be necessary to obtain that agency's  
12 assistance for the department in its investigation or to obtain physical custody of a  
13 minor;

14 (5) a state or municipal law enforcement agency as may be necessary  
15 for a specific investigation being conducted by that agency or for disclosures by that  
16 agency to protect the public safety; and

17 (6) a victim as may be necessary to inform the victim about the  
18 disposition or resolution of a case involving a minor.

19 \* Sec. 8. AS 47.14.200(a) is repealed and reenacted to read:

20 (a) There is created in the Department of Administration the Citizens' Foster  
21 Care Review Board. The board consists of seven public members appointed by the  
22 governor from among persons who have training, experience, special knowledge, or  
23 a demonstrated interest in the welfare of children. An out-of-home care provider or  
24 a person employed by the court system, the Department of Health and Social Services,  
25 the office of public advocacy, the Public Defender Agency, or the Department of Law  
26 may not serve as a public member of the board. The governor shall appoint at least  
27 one public member from each judicial district and shall appoint persons who are  
28 reasonably representative of the various social, economic, racial, ethnic, and cultural  
29 groups of the judicial district from which the members are appointed. The governor  
30 may not appoint a person who has committed a felony or violated AS 11.51.130 or a  
31 law with substantially similar elements. The board also includes the following state

1 officials or their designees:

2 (1) the commissioner of health and social services as a nonvoting  
3 member;

4 (2) the director of the office of public advocacy;

5 (3) the attorney general as a nonvoting member;

6 (4) the public defender appointed under AS 18.85.030.

7 \* Sec. 9. AS 47.14.200(b) is amended to read:

8 (b) Public [APPOINTED] members of the board [STATE PANEL] serve at  
9 the pleasure of the governor for staggered terms of three years or until their successors  
10 are appointed. These members may not serve more than two consecutive full terms,  
11 except that they may be reappointed to one or two additional consecutive full  
12 terms if they have been off the board for at least three years immediately  
13 preceding the reappointment.

14 \* Sec. 10. AS 47.14.200(c) is amended to read:

15 (c) The [VOTING] members of the board [STATE PANEL] shall elect from  
16 among the public [VOTING] members a chair who shall serve for one year. Five  
17 [THREE VOTING] members of the board [STATE PANEL] constitute a quorum for  
18 the transaction of business if at least three of the public members are present. The  
19 board [PANEL] may not take official action without the affirmative vote of at least  
20 three of its members, with at least two of the affirmative votes being made by  
21 public members.

22 \* Sec. 11. AS 47.14.200(d) is amended to read:

23 (d) Members of the board [STATE PANEL] are entitled to reimbursement for  
24 actual expenses necessary to perform their duties as board [STATE PANEL] members.  
25 The reimbursement may not exceed the amount of per diem and travel expenses  
26 authorized for boards and commissions under AS 39.20.180.

27 \* Sec. 12. AS 47.14.200(e) is amended to read:

28 (e) The board [STATE PANEL] shall meet at least twice annually. Meetings  
29 may take place telephonically.

30 \* Sec. 13. AS 47.14.200(f) is amended to read:

31 (f) The board [STATE PANEL] may employ an executive director (A

1 PROGRAM COORDINATOR] who shall serve at the pleasure of the board [STATE  
2 PANEL]. The executive director [PROGRAM COORDINATOR] shall employ staff  
3 as necessary to carry out the executive director's [PROGRAM COORDINATOR'S]  
4 duties under board [STATE PANEL] directives and to provide technical [CLERICAL]  
5 assistance to local review panels. The board may delegate duties to the executive  
6 director as necessary to assist the board in administering AS 47.14.200 - 47.14.299.

7 \* Sec. 14. AS 47.14.210 is amended to read:

8 Sec. 47.14.210. Powers and duties [DUTIES] of the board [STATE  
9 PANEL]. The board [STATE PANEL] shall

10 (1) hold regular and special meetings the board considers  
11 necessary;

12 (2) adopt regulations necessary [BY REGULATION ADOPT  
13 POLICIES AND PROCEDURES] to carry out its duties and to govern the performance  
14 of the duties of the local review panels established under AS 47.14.220;

15 (3) [(2)] ensure that the public members of the board and of the  
16 local review panels [PANEL MEMBERS] receive the [MINIMUM] level of training  
17 necessary to effectively carry out their duties, document in the board's records that  
18 the public members of local review panels have completed the training, and  
19 ensure that a public member of a local review panel does not review a case until  
20 training has been received;

21 (4) [(3)] coordinate and review the activities of the local review panels;

22 (5) apply for private and federal grants and solicit contributions,  
23 gifts, and bequests to administer and implement AS 47.14.200 - 47.14.299;

24 (6) award grants or contracts from available money to local  
25 governmental or public or private non profit agencies to carry out projects or  
26 studies related to improving the system for permanency needs of children in state  
27 foster care;

28 (7) use board staff to evaluate applicants for public members of  
29 local review panels and to provide training to local review panel members [AND  
30 MAKE RECOMMENDATIONS TO THE GOVERNOR ON APPOINTMENTS TO  
31 THE LOCAL PANELS];

1           (8) [(4)] prepare a report annually, by the 10th day of each regular  
2 session of the legislature, concerning the activities of the state board and the local  
3 review panels during the previous fiscal year; the report must include the number of  
4 cases reviewed by each local review panel, a description of the characteristics of the  
5 children whose cases were reviewed by the local review panels, the number of  
6 children reunited with their families, the number of children placed in other permanent  
7 homes, systemic barriers to achieving permanency for children, and  
8 recommendations and justifications for [PROGRAM] improvement in services and  
9 programs provided to children, including recommendations relating to state agencies  
10 and to the panel review system; the report may contain other information on the  
11 experience of the local review panels; the board [STATE PANEL] shall provide the  
12 governor and [NOTIFY] the legislature with [THAT] the report [IS AVAILABLE].

13 \* Sec. 15. AS 47.14.220 is amended to read:

14           Sec. 47.14.220. Appointment of local review panels. (a) The board  
15 [GOVERNOR] shall appoint for each judicial district at least [A LOCAL CITIZEN  
16 OUT-OF-HOME CARE REVIEW PANEL COMPOSED OF] five persons available  
17 to serve as public members on local review panels [AND TWO ALTERNATES]  
18 who are residents of the judicial district. Public members [MEMBERS] shall serve  
19 staggered [THREE-YEAR] terms of three years or until their successors are  
20 [EXCEPT THAT, WHEN A LOCAL PANEL IS INITIALLY] appointed, Public  
21 members may not serve more than two consecutive full terms, except that, after  
22 being off all panels for at least three years, a member may be reappointed to one  
23 or two consecutive full terms [, TWO MEMBERS SHALL BE APPOINTED FOR  
24 THREE-YEAR TERMS, TWO MEMBERS FOR TWO-YEAR TERMS, AND ONE  
25 MEMBER FOR A ONE-YEAR TERM. ALTERNATES SHALL BE APPOINTED  
26 TO THREE-YEAR TERMS].

27           (b) The board [GOVERNOR] shall appoint as public members [TO A  
28 LOCAL PANEL] persons who have training, experience, special knowledge, or a  
29 demonstrated interest in the welfare of children. An out-of-home care provider or a  
30 person employed by the court system, the department, the office of public advocacy,  
31 the Public Defender Agency, or the Department of Law may not serve as a public

1 member [OR ALTERNATE MEMBER] of a local review panel. The board  
2 [GOVERNOR] may not appoint a person who has committed a felony or violated  
3 AS 11.51.130 or a law with substantially similar elements.

4 (c) The public members [COMPOSITION] of a local review panel must be  
5 reasonably representative of the various social, economic, racial, ethnic, and cultural  
6 groups of the district from which the members are appointed.

7 (d) If the board [STATE PANEL] determines that additional public members  
8 [LOCAL PANELS] are necessary in a judicial district because of excessively large or  
9 complex caseloads for review or because of the demographics of cases [, OR  
10 DETERMINES THAT A LOCAL PANEL IS NOT NECESSARY BECAUSE OF A  
11 REDUCED CASELOAD], the board [GOVERNOR] may appoint additional public  
12 members [CREATE OR DISSOLVE A LOCAL PANEL. THE GOVERNOR MAY  
13 NOT REDUCE THE NUMBER OF PANELS IN A JUDICIAL DISTRICT TO  
14 FEWER THAN ONE]. Appointments of public members [TO A PANEL  
15 ESTABLISHED] under this subsection are governed by (a) - (c) of this section.  
16 Public members serve on the panel at the pleasure of the board.

17 (e) When a person is appointed to serve as a public member on a local  
18 review panel, the person shall swear or affirm in writing to keep confidential all  
19 information that comes before the local review panel except for nonidentifying case  
20 information included in a report to the state board [PANEL], information for reports  
21 required under AS 47.17, or as required by court order for good cause shown. A  
22 public member of a local review panel [MEMBER] may also share confidential  
23 information, on a need to know basis, with other members of the local review panel,  
24 the board, and the staff who serve the board or local review panel.

25 \* Sec. 16. AS 47.14.230(a) is amended to read:

26 (a) A local review panel shall conduct its meetings in the judicial district in  
27 which its public members reside.

28 \* Sec. 17. AS 47.14.230(d) is amended to read:

29 (d) A public member of a local review panel [MEMBER] is not eligible for  
30 travel expenses, per diem, or other expenses for service on the local review panel  
31 unless the state board [PANEL] requires the public [A LOCAL PANEL] member to

1 travel to attend a meeting. If the state board [PANEL] requires a public member of  
2 a local review panel [MEMBER] to travel to attend a meeting, the public [LOCAL  
3 PANEL] member is entitled to reimbursement for actual expenses incurred by the  
4 member in attending the meeting, except that the reimbursement may not exceed the  
5 amount of per diem and travel expenses authorized for boards and commissions under  
6 AS 39.20.180.

7 \* Sec. 18. AS 47.14.240 is amended to read:

8 Sec. 47.14.240. Duties of local review panel. (a) A local review panel shall  
9 review the case plan of each child in the custody of the department who is in a  
10 placement other than the child's own home under AS 47.10.080(c)(1) or (3),  
11 47.10.142, [AS 47.12.120(b)(3),] or AS 47.14.100(c) if the case is under the  
12 jurisdiction of a court in the judicial district served by the local review panel. A local  
13 review panel may request a local review panel in another judicial district to conduct  
14 a review and make a report if that local review panel is more convenient for the child  
15 and other persons involved.

16 (b) The local review panel shall review a case as required under 42 U.S.C. 671  
17 - 675 (P.L. 96-272) within 90 [180] days after the day the child is initially removed  
18 from the child's home and every six months thereafter. A court review may be  
19 substituted for a review required under this subsection if the court review meets the  
20 requirements of this subsection.

21 (c) At least 30 days before the local review panel [IT] begins a review, or  
22 as soon as practicable, the staff of the local review panel or of the state board shall  
23 provide written notice to the following persons that a review will be conducted and  
24 that each person notified may participate in the review:

- 25 (1) the appropriate employees of the department;  
26 (2) the child or the child's legal representative;  
27 (3) the child's parents;  
28 (4) the child's guardian;  
29 (5) the child's guardian ad litem;  
30 (6) the child's out-of-home care provider; and  
31 (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child

1 Welfare Act),

2 (A) the child's Indian custodian; and

3 (B) the designated representative of the child's Indian tribe if  
4 the tribe has intervened in the court case.

5 (d) In reviewing a case, the local review panel shall consider the case plan and  
6 any progress report of the department or the child's guardian ad litem, court records,  
7 and other relevant information about the child and the child's family. Department  
8 staff [THE LOCAL PANEL] shall [ALSO] provide to the following persons an  
9 opportunity to be interviewed by the local review panel in person or by telephone or  
10 to provide written material to the local review panel:

11 (1) the child whose case is being reviewed if the child is 10 years of  
12 age or older;

13 (2) the parents, custodians, or other relatives of the child;

14 (3) the child's out-of-home care provider;

15 (4) the child's guardian;

16 (5) the child's guardian ad litem;

17 (6) the case worker or social worker assigned to the case;

18 (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child  
19 Welfare Act),

20 (A) the child's Indian custodian; and

21 (B) the designated representative of the child's Indian tribe if  
22 the tribe has intervened in the court case; and

23 (8) other persons with a close personal knowledge of the case.

24 (e) At the discretion of the child's guardian ad litem, if the child whose case  
25 is being reviewed is under 10 years of age, the child may be present at interviews  
26 conducted under (d) of this section and during review by the local review panel [,] or  
27 may be interviewed. At the child's request, a child who is 10 years of age or older  
28 shall be allowed to be present at interviews or a review of the local review panel that  
29 concerns the child's case unless the panel determines that for good cause the child's  
30 presence would be contrary to the best interests of the child or there is other good  
31 cause for denying the child's request.

1 (f) During a review under (a) of this section, a local review panel shall

2 (1) determine whether the child has a case plan designed to achieve  
3 placement in the least restrictive, most family-like setting available in close proximity  
4 to the home of the child's parents that is consistent with the best interests [OF] and  
5 special needs and circumstances of the child;

6 (2) evaluate the continuing necessity and appropriateness of the child's  
7 placement, the extent of the compliance with the child's case plan, and the extent of  
8 progress that has been made toward mitigating the causes that necessitated placement  
9 away from the child's parents;

10 (3) ascertain the date by which it is likely the child may be returned  
11 to the home or placed for adoption or legal guardianship;

12 (4) determine whether there has been compliance with applicable  
13 provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act) and other applicable  
14 state and federal laws; and

15 (5) determine whether there has been compliance with court review  
16 requirements of AS 47.10.080(f) and (l) and [,] 47.10.142(h) [, AND AS 47.12.120(d)  
17 AND (g)].

18 (g) The local review panel shall within 15 [30] days after reviewing the case  
19 submit a written report to the persons listed in (c) of this section.

20 (h) The report required under (g) of this section must make advisory  
21 recommendations based on the best interests of the child in accordance with  
22 AS 47.10.082 and must include notification of the right to request court review under  
23 AS 47.10.080(f) [OR AS 47.12.120(d), AS APPROPRIATE]. If the court has  
24 scheduled the case for review, the local review panel shall submit its report at least  
25 20 days before the hearing.

26 (i) The local review panel shall report to the state board [PANEL] information  
27 needed by the state board [PANEL] to prepare the report required under  
28 AS 47.14.210.

29 \* Sec. 19. AS 47.14.250 is amended to read:

30 Sec. 47.14.250. Cooperation with state board and local review panels. The  
31 department, Department of Law, other departments of the executive branch, public

1       defender, office of public advocacy, and court system shall cooperate with the state  
2       board [PANEL] and the local review panels to facilitate timely review of plans for  
3       children whose cases are reviewed under AS 47.14.200 - 47.14.299. The duty of  
4       executive branch agencies to cooperate under this section extends to the provision  
5       of addresses and other information necessary for a local panel to locate a person  
6       entitled to participate in a review under AS 47.14.240(c) or (d) notwithstanding  
7       that providing the addresses or other information may be prohibited under other  
8       laws relating to those agencies [THE JURISDICTION OF THE PANELS].

9       \* Sec. 20. AS 47.14.260 is amended to read:

10           Sec. 47.14.260.   Records: communications.   (a)   Notwithstanding  
11       AS 47.10.090 and [,] 47.10.093 [, AS 47.12.300, and 47.12.310], at the request of a  
12       local review panel, the department, a municipality, the child's guardian ad litem, and  
13       the court shall furnish to the local review panel relevant records concerning a child  
14       and the child's family who are the subjects of a local panel review. At the conclusion  
15       of a review, all copies of records provided to a local review panel under this section  
16       shall be returned to the staff that serves the local review panel or to the agency from  
17       which the original copy was obtained unless the local review panel members need the  
18       copies to prepare the reports required under AS 47.14.240(g) - (i). Copies retained for  
19       preparation of the reports shall be returned to the staff that serves the local review  
20       panel or to the originating agency upon completion of the reports. Notwithstanding  
21       AS 44.62.310, records and reports of the local review panel, testimony before the local  
22       review panel, and deliberations of the local review panel are confidential under  
23       AS 47.10.090 [AND AS 47.12.310].

24           (b) A public member of a local review panel [MEMBER] may not reveal to  
25       another person, other than another member of the local review panel or the staff  
26       serving the local review panel, a communication made to the member while  
27       performing the member's duties under AS 47.14.200 - 47.14.299 except as required  
28       under AS 47.17 or as required by court order for good cause shown. A public  
29       member of a local review panel [MEMBER] may share with the state board  
30       [PANEL] communications made during the public [LOCAL PANEL] member's  
31       performance of official duties if the public [LOCAL PANEL] member omits

1 identifying information.

2 (c) A local review panel proceeding is not governed by AS 44.62.310.

3 \* Sec. 21. AS 47.14.270 is repealed and reenacted to read:

4 Sec. 47.14.270. Court review of report. (a) The local review panel shall  
5 submit its final report to the court to aid the court in its review of temporary custody  
6 orders issued under AS 47.10.142 and in its dispositional hearings and reviews under  
7 AS 47.10.080 and 47.10.083.

8 (b) The court may refer to the board for assignment to a local review panel a  
9 case called for a special review under AS 47.10.080(f), as appropriate.

10 \* Sec. 22. AS 47.14.280 is amended to read:

11 Sec. 47.14.280. Immunity [INDEMNIFICATION] of board and panel  
12 members. A state board [PANEL] member and a local review panel member shall  
13 be immune from [INDEMNIFIED BY THE STATE FOR] civil liability for a  
14 negligent act or omission of the board or panel member that occurs in the  
15 performance of the member's duties under AS 47.14.200 - 47.14.299 unless the civil  
16 liability results from the panel member's gross negligence or violation of

17 (1) AS 47.14.260(b); or

18 (2) the oath or affirmation required of a local review panel member  
19 under AS 47.14.220(e).

20 \* Sec. 23. AS 47.14.299 is amended to read:

21 Sec. 47.14.299. Definitions. In AS 47.14.200 - 47.14.299,

22 (1) "board" means the state board;

23 (2) "department" means the Department of Health and Social

24 Services;

25 (3) [(1)] "local review panel" means a local [CITIZEN OUT-OF-  
26 HOME CARE] review panel appointed under AS 47.14.220;

27 (4) [(2)] "out-of-home care provider" means an agency or person, other  
28 than the child's legal parents, with whom a child who is in the custody of the state  
29 under AS 47.10.080(c)(1) or (3), 47.10.142, [AS 47.12.120(b)(3),] or AS 47.14.100(c)  
30 is currently placed; in this paragraph, "agency or person" includes a foster parent, a  
31 relative other than a parent, a person who has petitioned for adoption of the child, and

1 a residential child care facility;

2 (5) "panel" means a local review panel;

3 (6) [(3)] "state board [PANEL]" means the Citizens' Foster Care  
4 Review Board [PANEL FOR PERMANENCY PLANNING] established in [UNDER]  
5 AS 47.14.200.

6 \* Sec. 24. AS 47.14.230(b) and 47.14.230(c) are repealed.

7 \* Sec. 25. TRANSITION. (a) Notwithstanding secs. 1 - 24 of this Act, the commissioner  
8 of administration may phase in implementation of this Act. Local review panels shall begin  
9 hearing all cases covered by this Act in Anchorage as soon as possible. Subject to  
10 appropriations, local review panels shall be implemented in the remainder of the state as soon  
11 as practicable.

12 (b) To the maximum extent for which appropriations are available, local review panels  
13 shall be in place in all judicial districts no later than 24 months after the effective date of this  
14 Act.

15 \* Sec. 26. This Act takes effect immediately under AS 01.10.070(c).

# LEGAL SERVICES

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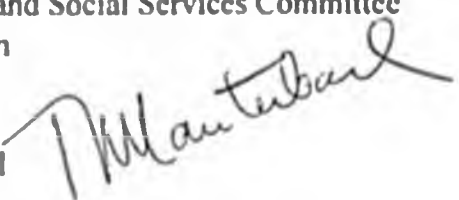
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## MEMORANDUM

February 18, 1997

**SUBJECT:** Sectional Summary of HB 127. (Foster Care Review System)

**TO:** Representative Con Bunde, Chair  
Health, Education and Social Services Committee  
Attn: Patti Swenson

**FROM:** Terri Lauterbach  
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

In general, this bill renames the Citizens' Review Panel for Permanency Planning as the Citizens' Foster Care Review Board and renames the local citizen out-of-home care review panels as, more simply, local review panels. The bill also redistributes some of the duties between the board and the local panels.

Section 1. Reflects the new name for the former Citizens' Review Panel for Permanency Planning and extends its termination date to the year 2000.

Section 2. Requires DHSS to notify the state board, rather than a local panel, about a child that DHSS removes from a home.

Section 3. Reflects the name change for the local panels.

Section 4. Reflects the name changes.

Section 5. Reflects the name changes.

Section 6. Requires DHSS to notify the state board, rather than a local panel, about a child that DHSS removes from a home.

**Section 7.** Deletes citizen review panels from the list of entities to which a state or municipal agency or employee may disclose information regarding a case. This appears to restrict panel access to delinquency information. The committee may wish to explore the intent of this amendment further.

**Section 8.** Renames and reconstitutes the state board for review of foster care.

**Section 9.** Reflects the new make-up and name of the state board.

**Section 10.** Sets quorum and voting requirements for the state board.

**Section 11.** Reflects the name change of the state board.

**Section 12.** Sets twice yearly meeting requirement as a minimum.

**Section 13.** Allows the state board to have an executive director to whom the board may delegate its powers.

**Section 14.** Adds new duties for the state board: to apply for private and federal grants and solicit contributions, to award grants or contracts to carry out projects or studies related to improving the foster care system, and to use board staff or award contracts to evaluate applicants for positions on local review panels and to provide training of local review panel members. Changes the board's reporting requirement so that it must provide its annual report to the legislature rather than just notify the legislature that the report is available. (The legislature recently changed almost all annual reporting requirements to be a notification to the legislature; this change would reverse that decision.)

**Section 15.** Sets the composition requirements for local review panels.

**Section 16.** Reflects the name change and new composition of the local review panels.

**Section 17.** Reflects the name change and new composition of the local review panels.

**Section 18.** Reflects the name change of the local panels. In subsection (c), adds a provision to give flexibility to the 30-day notice requirement of current law. In subsection (g), allows for majority and minority opinions to be included in reports from local panels.

**Section 19.** Reflects the name change for the board and local panels.

**Section 20.** By deleting references to AS 47.12.300 and 47.12.310 in subsection (a), this section may restrict the review panels' access to delinquency records. However, it may be that the references to AS 47.10.090 and 47.10.093 are considered sufficient to retain that

Representative Con Bunde, Chair  
February 18, 1997  
Page 3

access. I recommend that the committee obtain an explanation from DISS about the intent of this amendment and clarify the bill as considered necessary.

**Section 21.** Describes the interaction between the court and the local review panels.

**Section 22.** Reflects the name changes for the board and local panels and introduces a new gross negligence standard for their civil liability.

**Section 23.** Changes definitions to reflect the name changes for the board and local panels.

**Section 24.** Repeals subsections of law whose subject matter (quorum and officers) has been added in other parts of the bill.

**Section 25.** Allows phased-in implementation of the bill with full implementation within two years.

**Section 26.** Gives the bill an immediate effective date.

TML:pl:glc  
97-042.plm

# Alaska State Legislature

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## **SPONSOR STATEMENT CSHB 127 (HESS)**

**"An Act relating to the citizen review board and panels for permanency planning for certain children in state custody; renaming the Citizens' Review Panel for Permanency Planning as the Citizens' Foster Care Review Board; extending the termination date of the Citizens' Foster Care Review board; relating to disclosures about certain minors; and providing for an effective date."**

The goal of CSHB 127 (HESS) and foster care review is to assure that children do not linger unnecessarily in out-of-home care, but rather that they receive the support and benefits of a permanent home. To that end, this legislation strengthens the independence of both the Citizens' Foster Care Review Board and the local review panels. Additionally, the sunset date for the board is extended to June 30, 2000.

This legislation renames and recreates the state board for review of foster care and sets out the duties of the board. It also establishes the composition requirements and duties for local review panels.

The CSHB 127 (HESS) enables the local review panels to advocate for children in out-of-home care by reviewing each child's case within 90 days of removal from the home. This is a change from the current statute which requires a review within 180 days under 42 U.S.C. 671-675 (PL 96-272). The shorter time period before the first review will help enforce the need for early permanency planning. In each review, the local review panels will consider:

- Whether reasonable efforts have been made to prevent initial placement in foster care or to reunite families;
- The appropriateness of the child's out-of-home placement;
- The progress toward alleviating the cause of the out-of-home placement;
- The compliance and level of participation in the case plan of all appropriate interested parties;
- The child's permanency placement goal and the ability of the department to give the proper support to the family, or others involved in the case, to meet the goal in an efficient and timely manner;
- If there has been compliance with the Indian Child Welfare Act (ICWA) or other applicable state and federal laws;
- Whether there has been compliance with court review requirements;
- Any aspect of a case that the panel feels is in the best interest of the child.

Each case review by a local panel is translated into written findings and recommendations. The CSHB 127 (HESS) allows the findings and recommendations of the local panels to be placed into the court record for consideration in the disposition of a case.

The written findings and recommendations of the local review panels are also used to fill the requirement for a Title IV-E review under 42 U.S.C. 671-675 (PL 96-272). When the local panel's review functions as the Title IV-E review, the burden of this requirement is taken away from the department resulting in a cost savings.

**SPONSOR STATEMENT**

The complete expansion of the foster care review panels will take some time to implement. Therefore, the initial amount of savings to the department from Title IV-E reviews will be minimal. However, as the State Review Board begins its work and the Anchorage panel expands, the number of cases reviewed in Anchorage will increase. As other local panels are formed throughout the state, IV-E reviews will be done as quickly as possible to relieve DFYS of this task.

The Citizens' Foster Care Review Panel needs access to records within other state agencies. The CSHB 127 (HESS) supports the local panels and the state board by including language to grant access to records in other state agencies for the purpose of locating and notifying interested parties that a child's case will have a hearing on a specific date within next 30 days. This provision will increase the number of people notified of the reviews, and will increase participation of interested parties.

There are 37 states that involve citizens in their review process. Twenty-seven states have Citizen Review Boards and local review panels established by statute. The review boards and panels throughout the United States have enjoyed the success of achieving their purpose, which is decreasing the amount of time children linger in out-of-home care. By decreasing the amount of time children spend in out-of-home care a cost savings is achieved, and in many states the savings is significant. With the favorable vote of the committee, the Citizens' Foster Care Review Board and local review panels will achieve their intended purpose.

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

**CITIZEN'S FOSTER CARE REVIEW BOARDS**

The Division of Family and Youth Services supports SB 73 and HB 127. The division believes that six month case reviews are very beneficial for children in foster care and their families. In addition to that belief, six month reviews are a major requirement for one of the division's primary sources of federal funds.

Under Title Iv, Part E, of the Social Security Act, states may receive federal reimbursement for a percentage of costs spent to provide foster care for children who were receiving or eligible to receive AFDC prior to placement (Alaska's rate is 50%), as well as reimbursement for some administrative costs for certain staff activities on behalf of those children.

This section of federal law was developed to prevent the removal of a disproportionate number of children in poverty from foster care placements and subsequent foster care drift. Consequently, there are many requirements that states must meet to provide services to the family to 1) prevent removing a child if those services can keep the child safe at home, and 2) to reunite the child with his family if removal is necessary.

However, Congress was also concerned that efforts to reunite would continue too long and that a child would languish in foster care, either because states would not make efforts to reunite a family in a reasonable time, or that states would take too long working with a nonresponsive family rather than placing a child in a permanent alternative in a timely manner.

As a result, Congress required {42 U.S.C. 671 (a) (16)} "the development of a case plan... for each child receiving foster care maintenance payments under the State plan and... a case review system which meets the requirements ..." as follows {42 U.S.C. 675 (5) (B)}:

"the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship."

and { 42 U.S.C. 675 (6)}:

"The term "administrative review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review."

Each DFYS office has available (within the office or, for small offices, telephonically in the regional office) review panels generally consisting of a supervisor and/or social worker--neither of whom carries responsibility for the case being reviewed--and a member not associated with the agency. The latter may be a tribal representative on Indian Child Welfare Act (ICWA) cases, a representative from another agency, or a private citizen. Such panels have been in place since the mid to late 1980's. The panels are careful to address all of the federal requirements for reviews.

The impact of these bills would be to reduce the costs of developing and conducting citizen review panels state wide. To date, such panels exist only in Anchorage as a demonstration project. The funding level allows for review of only part of Anchorage cases, and the cost of providing the staff and recruiting and training volunteers to conduct the panels according to the current statutory requirements has prevented statewide implementation. DFYS sometimes has difficulty locating private citizens to serve on the division's review panels described above. Including DFYS participation on citizen reviews, with DFYS providing assistance for the panels in scheduling and sending notices for those reviews, would meet the intent of the statute and ensure meeting federal requirements without exorbitant costs. The revision will retain the State Panel and staff currently in Statute, but substitute the participation of Citizen Reviewers on DFYS panels rather than requiring a five-member local Citizen Review Panel for each review. Retaining the State Panel, staff, and volunteers within the Department of Administration will preserve the independence of the process but will save on costs.

## THE HISTORY OF STATE-BASED REVIEW LEGISLATION

Citizen foster care review systems first began in this country as a result of state-based initiatives. In 1974, South Carolina became the first state to enact legislation to establish a statewide Foster Care Review System. Initial funding for the South Carolina Children's Foster Care Review Board System was provided by the State of South Carolina and the Edna McConnell Clark Foundation of New York City. In 1977, after recognizing the value of citizen review, the South Carolina General Assembly fully funded the Children's Foster Care Review Board System as a separate state agency, creating an administrative office and external review boards throughout the state.<sup>2</sup>

New Jersey, recognizing the success of the South Carolina System in significantly reducing the number of children who unnecessarily remained in foster care, passed the State Child Placement Review Act in 1977. This act recognized the feasibility of a statewide foster care review system as a permanency planning tool, and required both administrative and judicial review of each child's placement in order to ensure that such placement serves the best interest of the child.<sup>3</sup>

In 1978, the Arizona Legislature passed a bill creating a statewide Foster Care Review System; by February 1979, case reviews of all dependent children placed in foster care in Arizona had begun. By the end of 1979, the states of Delaware and Maryland each also had enacted legislation requiring citizen review.

After overcoming the initial legislative and monetary barriers to foster care review, each of these states with citizen review saw a reduction in the costs of foster care maintenance. Delaware, for example, realized savings of at least \$25,000 for each child in foster care where permanency planning resulted in adoptive placement. This resulted in a two year savings of over \$1.5 million which, the state Foster Care Review Board determined, would cover the state's Foster Care Review Board System operating costs for longer than 13 years.<sup>4</sup>

In 1980, Congress passed the Adoption Assistance and Child Welfare Act (Public Law 96-272) which provided federal stimulation for states to establish citizen review systems to meet the third party review requirements of this Act.<sup>5</sup> Several states established citizen review systems shortly after 1980 including Georgia, Kentucky, Iowa, Michigan, Nebraska and Oregon.

Additional states were encouraged by local child advocates to establish citizen review systems and, with the help and support of the existing citizen review systems and the National Association of Foster Care Reviewers, programs were begun in Alaska, Florida, Kansas, Illinois, and Washington.

In 1991, citizen review systems were operating or legislated in twenty-two (22) states while in six (6) additional states, citizens were participating in administrative reviews or serving on pilot early review panels, creating a national advocacy network for foster children. Please refer to Appendix A for a listing of these states. This sophisticated and effective process of external review of the foster care system by local volunteers continues to encourage all states to develop citizen review systems.

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**STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF SENIOR SERVICES  
CITIZENS' FOSTER CARE REVIEW PANEL FOR PERMANENCY PLANNING  
ANNUAL REPORT STATISTICS  
1996**

|   |                   |
|---|-------------------|
| <b>Number of families reviewed in 1996</b>      | <b>87 (cases)</b> |
| <b>Number of children within those families</b> | <b>211</b>        |

**Number of children reviewed in 1996 by Ethnicity**

|                             |                    |            |
|-----------------------------|--------------------|------------|
| <b>Caucasian</b>            | <b>22 children</b> | <b>10%</b> |
| <b>Hispanic</b>             | <b>3 children</b>  | <b>1%</b>  |
| <b>African American</b>     | <b>32 children</b> | <b>15%</b> |
| <b>Alaska Native (ICWA)</b> | <b>76 children</b> | <b>36%</b> |
| <b>Multicultural ICWA</b>   | <b>52 children</b> | <b>24%</b> |
| <b>Multicultural Other</b>  | <b>26</b>          | <b>12%</b> |

**Ages of children reviewed in 1996**

|                                   |                               |            |
|-----------------------------------|-------------------------------|------------|
| <b>0 through 5 years of age</b>   | <b>76 Pre-school children</b> | <b>36%</b> |
| <b>6 through 12 years of age</b>  | <b>88 School-age children</b> | <b>44%</b> |
| <b>13 through 18 years of age</b> | <b>39 Teenagers</b>           | <b>18%</b> |
| <b>19 through 20 years of age</b> | <b>3 Young adults</b>         | <b>1%</b>  |

**169 children under the age of 13 were reviewed (80%)**

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PLACEMENT

Children Reviewed in 1996 - 211

The chart below indicates placement of children reviewed in 1996 based on the total population

| Placement         | Caucasian | Alaska Native | Hispanic | African American | Multicultural ICWA | Multicultural Other |
|-------------------|-----------|---------------|----------|------------------|--------------------|---------------------|
| Relative Homes    | 3%        | 12%           | 0%       | 3%               | 4%                 | 1%                  |
| Foster Homes      | 3%        | 11%           | 0%       | 5%               | 13%                | 3%                  |
| Residential Care  | 0%        | 0%            | 0%       | 5%               | 0%                 | 0%                  |
| Adoptive Homes    | 0%        | 6%            | 0%       | 1%               | 2%                 | 1%                  |
| Fost. Adopt Homes | 0%        | 0%            | 0%       | 0%               | 2%                 | 0%                  |
| Relative Guardian | 0%        | 0%            | 0%       | 0%               | 0%                 | 0%                  |

Two (2) children ran away, one being Multicultural ICWA and one being Multicultural Other

One (1) Alaska Native child was emancipated

Fourteen (14) children were returned home, one (1) Caucasian, (2) Alaska Natives, six (6) African American, and two (2) Multicultural ICWA

The chart below indicates placement of children reviewed in 1996 based on Ethnicity

| Placement         | Caucasian | Alaska Native | Hispanic | African American | Multicultural ICWA | Multicultural Other |
|-------------------|-----------|---------------|----------|------------------|--------------------|---------------------|
| Relative Homes    | 36%       | 35%           | 13%      | 21%              | 17%                | 26%                 |
| Foster Homes      | 50%       | 32%           | 66%      | 17%              | 51%                | 30%                 |
| Residential Care  | 0%        | 6%            | 0%       | 3%               | 1%                 | 1%                  |
| Adoptive Homes    | 3%        | 18%           | 0%       | 12%              | 11%                | 30%                 |
| Fost. Adopt Homes | 0%        | 2%            | 0%       | 3%               | 9%                 | 0%                  |
| Relative Guardian | 4%        | 0%            | 0%       | 3%               | 0%                 | 0%                  |

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**PERMANENCY PLAN**

**Identified Permanency Plan based on Ethnicity**

|                         | Caucasian | Hispanic | African Am | Alaska Native | MC ICWA | MC Other |
|-------------------------|-----------|----------|------------|---------------|---------|----------|
| Adoption                | 23%       | 0%       | 19%        | 24%           | 19%     | 27%      |
| Adoption/Foster Parents | 0%        | 0%       | 3%         | 0%            | 4%      | 0%       |
| Adoption/Relatives      | 0%        | 0%       | 21%        | 25%           | 15%     | 31%      |
| Emancipation            | 0%        | 0%       | 0%         | 1%            | 0%      | 8%       |
| Guardianship            | 9%        | 0%       | 0%         | 1%            | 0%      | 0%       |
| Guardianship/Adoption   | 0%        | 0%       | 0%         | 4%            | 0%      | 0%       |
| Guardianship/Relative   | 18%       | 0%       | 13%        | 11%           | 12%     | 8%       |
| Independent Living      | 5%        | 0%       | 0%         | 0%            | 0%      | 0%       |
| Permanent Foster Care   | 0%        | 0%       | 6%         | 0%            | 0%      | 0%       |
| Reunification/Mother    | 27%       | 100%     | 25%        | 25%           | 25%     | 8%       |
| Reunification/Father    | 0%        | 0%       | 13%        | 7%            | 19%     | 12%      |
| Reunification/Parents   | 18%       | 0%       | 0%         | 1%            | 6%      | 3%       |
| Unknown                 | 0%        | 0%       | 0%         | 0%            | 0%      | 0%       |

**Identified Permanency Plan Based on Total Population**

|                        |    |     |
|------------------------|----|-----|
| Adoption               | 46 | 22% |
| Adoption/Foster Parent | 3  | 1%  |
| Adoption/Relative      | 44 | 21% |
| Emancipation           | 3  | 1%  |
| Guardianship           | 4  | 1%  |
| Guardianship/Relative  | 24 | 11% |
| Independent Living     | 1  | 05% |
| Permanent Foster Care  | 2  | 09% |
| Reunification/Parents  | 10 | 5%  |
| Reunification/Father   | 22 | 10% |
| Reunification/Mother   | 51 | 24% |

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**PERMANENCY ACHIEVED**

To date, the information available indicates that during 1996, fifty (50) children (24%) of the total population reviewed in 1996) reached permanency, two (2) Caucasian, eleven (11) African American, nineteen (19) Alaska Native, ten (10) Multicultural ICWA, and eight (8) Multicultural Other.

Based on the number of children reviewed in 1996 in each Ethnic group, 4% of Caucasian Children, 22% of African American Children, 38% of the Alaska Native Children, 20% of the Multicultural ICWA, and 16% of the Multicultural Other Children reached permanency.

|                          | Caucasian | Hispanic | African Am | Alaska Native | MC ICWA | MC Other |
|--------------------------|-----------|----------|------------|---------------|---------|----------|
| Reunified w/Mother       | 1         | 0        | 4          | 7             | 1       | 0        |
| Reunified w/Father       | 0         | 0        | 4          | 3             | 2       | 1        |
| Reunified w/Parents      | 0         | 0        | 0          | 1             | 1       | 0        |
| Adopted                  | 1         | 0        | 1          | 1             | 0       | 4        |
| Adopted by Relative      | 0         | 0        | 0          | 5             | 3       | 2        |
| Guardianship by Relative | 0         | 0        | 2          | 1             | 3       | 0        |
| Emancipation             | 0         | 0        | 0          | 1             | 0       | 1        |

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### NUMBER OF PLACEMENTS

37 of the 211 children reviewed in 1996 have had one placement.  
76 of the 211 children reviewed in 1996 have had 2-4 placement changes.  
50 of the 211 children reviewed in 1996 have had 5-8 placement changes.  
23 of the 211 children reviewed in 1996 have had 9-10 placement changes.  
20 of the 211 children reviewed in 1996 have had 11-14 placement changes.  
1 of the 211 children reviewed in 1996 had 17 placement changes, 2 had 18 placement changes, 1 had 21 placement changes; one had 24 placement changes

The information available also indicates that children have been returned to parents from 1 to 7 times in addition to to the above placement changes.

42 of the 211 children reviewed in 1996 have been returned to parents 1 time  
17 of the 211 children reviewed in 1996 have been returned to parents 2 times  
4 of the 211 children reviewed in 1996 have been returned to parents 3 times  
6 of the 211 children reviewed in 1996 have been returned to parents 4 times  
3 of the 211 children reviewed in 1996 have been returned to parents 5 times  
2 of the 211 children reviewed in 1996 have been returned to parents 6 times  
1 of the 211 children reviewed in 1996 has been returned to parents 7 times

### LENGTH OF TIME IN FOSTER CARE

The following information is based on the latest out-home date available to CFCR and on the total population of children reviewed by CFCR in 1996

Fourteen (14) children have been in out of home care for ONE YEAR.  
Seventy-two (72) children have been in out of home care for TWO YEARS.  
Seventy-five (75) children have been in out of home care for THREE YEARS.  
Thirty-two (32) children have been in out of home care for FOUR YEARS.  
Five (5) children have been in out of home care for FIVE YEARS.  
One (1) child has been in out of home care for SIX YEARS.  
One (1) child has been in out of home care for SEVEN YEARS.  
Six (6) children have been in out of home care for TEN YEARS.  
Two (2) children have been in out of home care for THIRTEEN YEARS.  
Two (2) children have been in out of home care for FOURTEEN YEARS.  
One (1) child has been in out of home care for SIXTEEN YEARS.

The CRB is also active in working with the courts on policy and practice. Current projects include:

- chairing and participating in the Court Improvement Project
- participating in new judge orientation training on juvenile dependency cases.
- serving as liaison to the Oregon State Police for dispositional reporting.
- working with the Juvenile Justice Workgroup to develop budget proposals.
- working with judges on the local level to coordinate reviews and avoid duplication and to impact court practice to best serve children and families.
- funding the Family Court Advocate position in Deschutes county
- participating on an Oregon State Bar Task Force on Indigent Defense sub-committee that wrote the guidelines for attorneys handling dependency cases.

### REVIEW RESULTS

The CRB collects data on all children and youth offenders reviewed. Over the last several years, the length of stay for the long term population of children and youth in the system has declined. The number of moves children experience in placement also declined. The number of interested parties participating in CRB reviews has increased.

### TIME IN CARE REPORT

| YEAR | MONTHS IN CARE |
|------|----------------|
| 1992 | 36.5 MONTHS    |
| 1993 | 35 MONTHS      |
| 1994 | 30.6 MONTHS    |
| 1995 | 28.3 MONTHS    |
| 1996 | 27.9 MONTHS    |

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— Review Panel Stats from Oregon —

**PLACEMENT REPORT**

| YEAR | NUMBER OF MOVES |
|------|-----------------|
| 1992 | 4.1 MOVES       |
| 1993 | 3.8 MOVES       |
| 1994 | 3.5 MOVES       |
| 1995 | 3.2 MOVES       |
| 1996 | 3.1 MOVES       |

**PLAN OF CARE REPORT**

| PLAN                  | 1992 | 1993 | 1994 | 1995 |
|-----------------------|------|------|------|------|
| Return to Parent      | 45%  | 45%  | 46%  | 47%  |
| Achieve Guardianship  | 3%   | 3%   | 3%   | 3%   |
| Achieve Adoption      | 24%  | 25%  | 25%  | 27%  |
| Emancipation          | 8%   | 7%   | 6%   | 4%   |
| Long Term Sub Care    | 11%  | 10%  | 9%   | 8%   |
| Permanent Foster Care | 9%   | 10%  | 11%  | 11%  |

**INTERESTED PARTY PARTICIPATION**

| YEAR | INTERESTED PARTIES<br>(does not include SCF/OYA<br>staff) | PARTIES PER<br>REVIEW |
|------|---|-----------------------|
| 1992 | 9,652   | 1.75                  |
| 1993 | 10,074  | 1.92                  |
| 1994 | 12,065  | 2.05                  |
| 1995 | 13,546  | 2.15                  |
| 1996 | 13,085  | 2.19                  |

AN OVERVIEW  
OF  
CITIZEN INVOLVEMENT  
IN FOSTER CARE REVIEW

SECOND EDITION



NATIONAL  
ASSOCIATION OF  
FOSTER CARE  
REVIEWERS

*Helping Systems Work for Children*

72 Light Street, Baltimore, MD 21202

## DATA COLLECTION/REGISTRY

Foster care review systems often serve an important data collection and information registry function. Most statewide review board systems collect information and generate statistics regarding the status of children in foster care. This information is generally gathered through the use of automated operational systems, in which data is automatically entered into a central computer data base at the time of the first review. Systems with such automated procedures include Arizona, Kentucky, Maryland, Michigan, Nebraska, Iowa, and South Carolina.<sup>6</sup>

In Nebraska, the enabling legislation establishing citizen review is unique in that it mandates the Foster Care Review Board to serve as the official statewide registry for statistical information on children in substitute care. Information is sent to the Board on each child at the time he or she enters care. Prior to the establishment of the Board in Nebraska in 1982, there was no way of gathering reliable information on the numbers of foster children in that state.<sup>7</sup>

Data systems record such information as the child's name, birth date, gender, legal status, type of placement, services provided and visitation patterns. This data enables boards to track information such as numbers of initial placements, numbers of children in care, reasons children enter care, characteristics of foster children, length of stay in care, which children are more likely to be returned home or placed in alternate permanent families and much more.

In addition, most data systems, like the Michigan Foster Care Review Board System, track systemic and case specific barriers to the implementation of a permanent plan.<sup>8</sup> The information gathered can be very useful to review systems in evaluation, advocacy and case review efforts.<sup>9</sup> In Nebraska, for example, data from the registry has been used to conduct independent evaluations of the review system in 1985 and 1986. These evaluations indicated the effectiveness of the review system in moving children to adoption, and concluded that the system was quite cost-effective.<sup>10</sup>

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<sup>6</sup> Arizona Training manual, at p.3.

<sup>7</sup> Section 20-7-2397 (1986), South Carolina Children's Code.

<sup>8</sup> See Appendix A.

<sup>9</sup> "And How Are The Children", State of Nebraska Foster Care Review Board, First Annual Report (Dec. 1983) at p.75.

<sup>10</sup> Interview with Tom Kasling, Director, Michigan Foster Care Review Board, 5/12/86, p.4.

<sup>11</sup> e.g., Nebraska Annual Report.

<sup>12</sup> Coyne, Ann, Ph.D. and Medlin, Nadine, An Evaluation of the Nebraska State Foster Care Review Board published in

"Children, What Has Changed?" Third Annual Report of the Nebraska State Foster Care Review Board (Dec. 1985) at p.75.

## ANNUAL REPORT

Many states have legislative mandates requiring that state citizen review systems provide annual reports to the governor, legislature or the supreme court. The data collected on barriers to permanence is often used as the basis for the annual report recommendations to improve the foster care system.

Annual reports, particularly when coupled with data collection efforts, are effective tools in providing documentation to illustrate the cost effectiveness of review boards. For example, Delaware's annual reports have shown a dramatic increase in government savings since the implementation of its board through a post-review decrease in the number of children in foster care.<sup>11</sup>

These annual reports also serve as effective advocacy tools. Reports are issued to the media and the public, as well as to the branches of government, and generally contain the state board's recommendations for improvements in the foster care system.<sup>12</sup> The reports include information on review policy, procedures, budget information, and proposed recommendations and legislative changes.

## ADVANTAGES OF CITIZEN REVIEW

Citizen review boards have several advantages not only for the children in foster care, but for the court system, social services system and taxpayers. By engaging in interdisciplinary cooperative efforts, citizen review systems can make tremendous advances in the delivery of foster care services including the following:

1. Reducing the number of children in placement, thereby improving the quality of life for these children and saving tremendous amounts of government dollars;
2. Increasing the awareness of the community to the plight of children in care;
3. Serving a "check and balance" function to assure that all aspects of the child welfare system are functioning correctly and appropriately;
4. Enabling changes in the legislature regarding foster care statutes;
5. Serving an investigative function to aid in appropriate case planning;
6. Encouraging and aiding in the recruitment of foster homes;
7. Freeing case workers who might otherwise be conducting reviews to do casework and provide services to families;
8. Increasing cooperation and communication between various agencies serving children;
9. Developing new policies, procedures and resources for children in care; and
10. Monitoring child welfare agency compliance with the requirements of federal law.

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<sup>11</sup> See State of Delaware Foster Care Review Board 1987 Report and Recommendations (Jan. 1987).

<sup>12</sup> See e.g. Arizona Foster Care Review Board 1987 Report and Recommendations (Jan. 1987); and State of Michigan Foster Care Review Board Program Biennial Report, October 1988-September 1990.

## Training

Training of panel members is a crucial part of the citizen review process. Citizen members need adequate training in placement issues and review procedures in order to properly fulfill their responsibilities. Training on board process and decision-making skills is also important. Therefore, nearly all systems provide some form of mandatory training for local board reviews.<sup>33</sup>

New panel members may receive training regarding permanency planning issues, case planning; the role and responsibilities of the review boards, foster care placement procedures, the role of the courts and social service agency, and skills enhancement. The training often includes participation in mock review sessions. These sessions may range from a few hours to several days in length. Frequently, speakers from the state child welfare agency and the court will participate in the orientation of new board members.

Most systems issue complete training manuals to panel members with complete sets of applicable laws and procedures. On-going training is provided by professional staff at reviews and several states publish periodic newsletters for members.<sup>34</sup>

Some states are also able to reimburse panel members for attendance at approved national or regional seminars on child welfare issues. Scholarship or award programs may also be offered to local board members as a way to enhance extended training opportunities.<sup>35</sup>

Most review programs require that board members attend ongoing educational training in addition to orientation sessions. Current issues in foster care, service delivery and

advanced skills training sessions designed to help panels operate more effectively are common topics.<sup>36</sup>

## Oath of Office/Confidentiality Requirements

Newly appointed local panel members in some states are required to take an oath of office in which they promise to faithfully fulfill their duties and responsibilities. Many states require panel members to sign or swear to a statement regarding confidentiality of the review process.<sup>37</sup>

Board members may be exposed to civil and/or criminal liability for the violation of confidentiality requirements. In Tennessee, local board members may be statutorily liable for \$500 or up to three times the amount of any actual damages suffered for the unauthorized release of confidential information.<sup>38</sup>

It is significant to note that breach of confidentiality has not been a significant problem in the daily operation of citizen review panels. This is probably attributable to training offered in this regard by most programs and to the responsibility of the volunteers themselves. Reviewers can and do use information gathered during case reviews to advocate on behalf of needed systems changes, as long as identifying case information is not given.

## STAFFING OF REVIEW BOARDS

State and local review systems require staff to coordinate and assist with administrative and ministerial duties. The exact nature of the staff support provided generally depends upon the organizational auspices and funding sources of the particular review system. In states organized within the Administrative Offices of the Court, the staff are employees of the Supreme Court. Review board staff working under the court system may receive legal staff support services from the court. In South Carolina, legal support is not provided by the court; therefore, the agency employs a full time staff attorney.<sup>32</sup>

The State Boards of independent state agencies hire a director who hires agency staff. In Maryland, the director is hired by the State Board with the approval of the Secretary of the Department of Human Resources, and is responsible to both the board and the DHR secretary.

Staff serve a variety of functions. Under most systems, the director is responsible for: administration and application for funds; hiring and training other employees; maintaining computer systems; maintaining a data registry and case files; implementing board policy; and supervising day-to-day operations. The staff serve as a resource to the state board and work with its members to develop training programs, to prepare policies and procedures and to prepare the annual reports on the status of the foster care system.

Most systems have staff assigned to assist in the operation of local panels. Tasks of these staff members may include scheduling cases for review, notifying interested parties, preparing case materials for board review, assisting in the review, recording the review, and drafting the board's case finding and recommendations.<sup>33</sup>

The value of a full-time, paid staff member assisting the foster care review board members to carry out their responsibilities should not be underestimated. By taking care of routine administrative and clerical details, staff persons enable the volunteer board members to focus their limited time on the individual cases to be reviewed. The volunteer's education and expertise can thus be focused on the foster care and child welfare system with maximum efficiency. The presence of a well-trained staff is an important factor in the retention of highly qualified board members.

## VOLUNTEER PARTICIPATION ON AGENCY BOARDS

There is another form of volunteer involvement in foster care review in addition to the external citizen review panels which are the primary focus of this overview. A number of

states use citizen volunteers to serve on internal foster care reviews conducted by the child welfare agency itself.

Typically, these internal panels might consist of a caseworker, one or more casework supervisors and a volunteer. Thus, where administrative reviews are conducted every six months as an alternative to judicial or other external review, including a volunteer member on the agency panel satisfies the mandate of PL 96-272 that at least one member of the review team not be responsible for the delivery of services to the child whose case is being reviewed.<sup>34</sup>

Most systems using citizens on internal boards include the volunteers on internal panels at the agency's initiative rather than pursuant to state mandate or enabling legislation. Generally, volunteer members recruited and appointed by the agency are often quite knowledgeable and experienced in the child welfare field. Recommendations focus on the specific case plans being reviewed.<sup>35</sup>

## CHAPTER IV. REVIEW BOARD PROCESS

### PRE-REVIEW

#### Types of Cases Reviewed

State laws and regulations vary as to the definition of "foster care" for the purpose of determining the types of cases to be reviewed. Most review systems conduct reviews of children who have entered public foster care due to abuse and neglect. South Carolina and Nebraska have the authority to review children in both public and private foster care. Some systems also review children who have entered foster care due to being adjudicated delinquent or incorrigible.

Review systems also vary in whether or not reviews are conducted on children who have been voluntarily placed in foster care. Exclusion of voluntary placements may unduly eliminate many cases from the review process in some states.

Ideally, foster care case reviews are conducted for each child who enters the foster care system. Unfortunately, financial or statutory limitations in some states prevent citizen involvement in foster care reviews of all cases in which children are placed in care. Arizona, Delaware, Kentucky, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, South Carolina and West Virginia have state-wide programs which review all children in the public foster care system. In addition, South Carolina statute mandates that children in private foster care also be reviewed.<sup>1</sup>

#### Frequency of Review

Regular and sensitive case review is crucial to the well-being of each child placed in America's foster care system. Children operate under a different perception of time than adults; a two-year old child in foster care for six months has lived a fourth of his life without a permanent family.

The necessity for frequent review is recognized by PL 96-272, the Adoption Assistance and Child Welfare Act of 1980. Key requirements of PL 96-272 provide that states, as a condition of receiving matching federal funds for foster care payments, develop agency and judicial systems to regularly review the cases of children in foster care at least every six months.<sup>2</sup> Accordingly, most foster care review board systems conduct reviews at six-month intervals.

The timing of initial reviews for children in foster care varies from state to state. Most states conduct the initial review between four and six months after a child enters foster care; however, Kentucky conducts the first case review thirty days after a child enters the foster care system while Oklahoma and New Jersey conduct the initial review after the child has been in placement forty-five days.<sup>3</sup> The early review of cases has been supported by the National Association of Foster Care Reviewers as an effective model, especially to assess the provision of reasonable efforts made to prevent the removal from the home.

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<sup>1</sup> See Appendix A.

<sup>2</sup> 42 USC, Section 670 et seq.

<sup>3</sup> See Appendix A.

The timing of subsequent reviews varies from three to twelve months, with the majority of the states conducting subsequent reviews every six months.<sup>4</sup> Kentucky averages three months between subsequent reviews whereas Wisconsin conducts subsequent reviews every twelve months. Maryland defers subsequent citizen reviews until six months after a judicial review or twelve months after the last citizen review, whichever is sooner. There are only a few of review boards that have the authority to schedule subsequent reviews at any time deemed appropriate.<sup>5</sup>

### Parties Invited to Attend Reviews

The state systems have differing requirements regarding the parties included in the review process. These requirements usually are delineated by statute, although in some states, the designation of interested parties is left to the review board. Kentucky is currently the only review system that does not involve interested parties in the citizen review process. Nebraska currently involves interested parties in four Early Review Projects; however, implementation of full participant reviews is scheduled to begin on September 1, 1991. All other review systems involve interested parties in the review process.<sup>6</sup>

Nearly all systems leave room for the exercise of board discretion in individual cases. For example, the Arizona Rules of Procedure and the South Carolina Foster Care Review Board Regulations both stipulate that review boards may hear from anyone who formally requests to be heard during a child's case review as long as the person has some knowledge of the case.<sup>7</sup>

Most states that include parties in the review process consider the birth parents to be interested parties. This requirement is reflected in PL 96-272, which requires notice and opportunity to participate to the birth parents in any review procedure adopted in accordance with the Act. It is highly preferable to include the parents in any review proceeding because of the serious due process rights affected<sup>8</sup> and to ensure that they understand and have the means to comply with any case plan requirements for reunification.<sup>9</sup> It is important for review boards to determine if birth parents understand why their children are in foster care and to assess if parents are being provided with services to facilitate reunification of the family.

Most states consider the child to be a crucial interested party; however, the extent to which the child is included in the actual review process is generally left up to the discretion of the review board. Some systems only require notice to the child if he or she has reached an age considered mature enough to understand the proceedings. In South Carolina, for example, children ten years of age or older are invited and encouraged to attend reviews.<sup>10</sup> Iowa requires notice to children 14 years of age or older.<sup>11</sup> Delaware law requires notice to the child "where appropriate."<sup>12</sup> Arizona is required to give notice to children twelve years of

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<sup>4</sup> See Appendix A.

<sup>5</sup> National Association of Foster Care Reviewers, *Comparative Survey of State Third Party Review Systems* (1991).

<sup>6</sup> See Appendix A.

<sup>7</sup> Arizona Foster Care Review Board *Operational Guidelines*, (1981); South Carolina Foster Care Review Board Regulations (1987).

<sup>8</sup> Dodson, Diane, "Advocating at Periodic Review Proceedings" *Foster Children in The Courts*, A.B.A. (1983), Mark Hardin, ed. pp. 105-107.

<sup>9</sup> Ibid.

<sup>10</sup> South Carolina Foster Care Review Board Regulations (1987)

<sup>11</sup> Iowa Juvenile Code Section 217.18.

<sup>12</sup> Delaware Code Section 3803 (1979)

age and older.<sup>13</sup> Some review systems arrange for the child to meet privately with one or more members of the Review Board if the caseworker or the child believe that the group setting of the review may be too stressful for the child.

Virtually all systems require some type of attendance or input by the child welfare agency responsible for the child's care. In many instances the caseworkers are required to present either a written report to the board or to present the circumstances of the case at the review.

Foster parents and caregivers are often involved because of their involvement in the day-to-day care for the child. Foster parents frequently provide first-hand information about the child's daily behavior, reaction to visitation by parents, and need for any additional casework services. Foster parents are a vital part of the treatment team and their input is invaluable in the development and implementation of permanent plans for children in their care.

Other interested parties often included in the review process are attorneys for the parents and child, Court Appointed Special Advocates or Guardians ad Litem, relatives, service providers, teachers, and others with special knowledge of the child's circumstances.

### Notice to Invited Parties

Once the appropriate parties to a review proceeding are determined, notice of the review is sent to those parties. Most states properly require written notice to the interested parties to ensure their knowledge of the review process and to encourage their attendance and participation at the review. The policies for timeliness of notice to parties varies among the review systems. Michigan requires written notice to parties ten working days prior to the review, and specifies that, at a minimum, the notice should include the child's name; the date; time and location of the review; a brief statement of the purpose of the review; and a statement regarding the recipient's rights and objectives to attend and participate.<sup>14</sup> Notice in Georgia must be completed at least two weeks prior to the hearing, and is required to include an advisement to the birth parents and the child of their right to bring a representative.<sup>15</sup> Delaware law requires written notice of a review thirty days prior to the scheduled review, to be sent to the placement agency, the child "where appropriate", the parents, foster parents, child's attorney, and an person or agency interested in or having knowledge about the child.<sup>16</sup>

In some instances, responsibility for sending the notice to other parties rests with the child welfare agency after it is notified of a hearing date; in other cases all notices are handled by review board staff. Often the child welfare agency will be notified in advance of other parties.

Review board staff in South Carolina notify the designated representative of the child welfare agency of the date, time, and the location of the review hearing at least four weeks in advance. The caseworker responsible for presenting the case to the review board is then responsible for sending written notice of the review hearing three weeks prior to the scheduled review to all interested parties. If any interested party is not in attendance at a

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<sup>13</sup> Arizona Foster Care Review Board Operational Guidelines, (1981).

<sup>14</sup> e.g. State Court Administrative Office Handbook of Policies and Procedures for the Citizen's Foster Care Review Board Program in Michigan, Lansing, Michigan, June 1987.

<sup>15</sup> Council of Juvenile Court Judges of Georgia Operational Guidelines: Judicial-Citizen Permanency Planning & Review Process, (1983).

<sup>16</sup> Delaware Code Section 3803 (1977).

scheduled review hearing, the child welfare agency is responsible for providing the board with documentation verifying that notices were mailed to these parties.<sup>17</sup>

## THE CASE REVIEW PROCESS

### Introduction of Parties Present

Most review board chairpersons will introduce the members of the board to all invited parties and will explain the purpose of the review. The participation of all interested parties, at least during the initial stages of the review, serves to create an atmosphere where their attendance and views are deemed to be important. Discretion may be used to determine which parties may be involved during the introductory remarks.

### Presentation of Case

There are two basic models for the presentation of cases at reviews:

1. a review of case reports and other written materials;
2. a full review hearing with some or all interested parties.

Kentucky is currently the only state that reviews case reports and other written materials without involvement from interested parties. All other review systems report conducting full reviews with involvement of interested parties.<sup>18</sup>

Where full reviews are conducted, they are generally informal and non-adversarial in nature. The formal rules of evidence do not apply and attempts are made to avoid legal terminology that might be intimidating to lay participants. It is generally felt that a relaxed atmosphere encourages information and generates additional information useful in the review process. The majority of review systems have minutes or case notes that are kept by a staff person or a review board member.

A few states provide review board members an opportunity to review written materials prior to the actual review hearing. For example, in Arizona, review board staff members mail case packets to be reviewed several days in advance. These packets contain copies of the initial permanent plan, a progress report, and the board's latest recommendations.<sup>19</sup> Board members in New Jersey receive a packet of written materials from the Division of Youth and Family Services, including the placement plan, one week prior to the review hearing.<sup>20</sup> Board members in Michigan receive a complete package ten working days prior to the review hearing, containing the initial social study and case record face sheet, the two most recent quarterly reports, a copy of the applicable court orders, the child's placement record, and any other information the case worker thinks is appropriate.<sup>21</sup>

Provision of information in advance is preferable, both in allowing for better preparation, and in terms of avoiding delays by allowing review board members time to request additional information deemed necessary. While reviewers generally do not have subpoena powers equivalent to those of a court, many review board statutes provide a

<sup>17</sup> South Carolina Foster Care Review Board Regulations (1987)

<sup>18</sup> National Association of Foster Care Reviewers, *Comparative Survey of State Third Party Systems* (1991)

<sup>19</sup> e.g. Arizona Foster Care Review Board *Operation Guidelines*, (1981).

<sup>20</sup> New Jersey Child Placement Advisory Council, *Training Manual*, p.48.

<sup>21</sup> Michigan State Court Administrative Office *Handbook*, *ibid.*, p.26.

mechanism for a panel to petition the court for an order that materials be made available to them.<sup>22</sup>

Since some review systems do not receive information in advance, the case presentation at the time of the scheduled review is critical. Most case reviews begin with an oral or written summary of the case, usually presented by the caseworker or placement agency and sometimes by review board staff or the review board chairperson. In a number of states, one board member is designated as a presenter to outline the case prior to the review. Kansas has the presenter and a co-presenter receive detailed packets of information, including medical and psychological evaluations, school reports and other materials not contained in the packets distributed to other board members.<sup>23</sup>

The oral presentation to the review board may include the following:

- the reason for the child's foster care placement;
- the appropriateness of the child's current placement;
- the case plan;
- a time frame for completion of the permanent plan;
- progress to date toward achieving the permanent plan;
- the status of court ordered services to the child and/or family.<sup>24</sup>

### Questioning Parties

Following the case presentation by staff, the agency representative or the caseworker, the review board members generally question the caseworker on specific issues to clarify the status of the case. The Board will allow each party who is present to address the board and will ask questions to generate additional information.

In some states, all parties will be present during the questioning process, while in other states, interested parties will be brought in individually. In this regard, it appears important to allow the parents to be present during any caseworker presentation to allow them an opportunity to respond to any issues raised. In most review systems, the review board will use discretion to determine which parties may remain for the entire case review and which parties will leave after presenting their information.

There are times when the review board may wish to talk individually with specific parties. The questioning of a child, in some instances, may best be accomplished when the child appears alone, or with someone the child trusts. Another technique used by some review boards assigns one or two members to talk with the child separately.

When confidential information is presented that certain interested parties neither need nor have a right to know, the board may wish to exclude them from that portion of the case review. A review board may wish to hear the interested parties separately, especially when parties are involved in litigation and a confrontation might be detrimental to the participation of others.

Questions by the boards should focus on the permanent plan for the child, progress toward implementation of the plan, and any barriers to implementation. In many states, review

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<sup>22</sup> Oregon Code Section 419.780 (3).

<sup>23</sup> Kansas Foster Care Review Board Training Manual, University of Kansas, p 26 (1986)

<sup>24</sup> South Carolina Foster Care Review Board Handbook, (1991)

board staff have developed suggested guidelines to aid members in questioning the parties.<sup>25</sup>

### Discussion and Development of the Recommendation

Review board members will deliberate following the presentation of the case to formulate the appropriate permanent plan for the child. Ideally, boards will meet in executive session to consider information received during the review process and to formulate its recommendation as to the best permanent plan for the child. Factors to be considered by the board in formulating its recommendation are outlined by statute in some states. The following factors may be considered during in the decision-making process:

- whether adequate visitation is being allowed and whether visitation is occurring;
- length of time in placement;
- whether reasonable efforts are being made to return the child where reunification is the goal;
- placement options;
- grounds for termination of parental rights;
- barriers to implementation.

### Formulating Recommendations

The recommendations of local review boards in virtually all jurisdictions are advisory. It is very important to point out, however, that an advisory recommendation can be very valuable to the court and the agency in determining the appropriate placement plan for the child.

Most review boards advise parties in attendance at the review of the recommendations to be issued by the board. Some systems set forth the specific requirements for the content of review board recommendations. These requirements sometimes include a placement priority system to be followed by the board or a list of alternative board findings. For example, Maryland law provides that if the review board is not in agreement with the child welfare agency's plan, it must make its own specific recommendations. Maryland also requires that the recommendations "include an assessment of the appropriateness of the current placement in terms of the requirements of the federal law".<sup>26</sup>

In New Jersey, the statute and board guidelines require that one of the following findings be made, with supporting reasons:

- that continued placement is not in the child's best interest and that the child should be returned home, and that services should be provided as necessary;
- that continued placement is in the child's best interest and that the placement plan is appropriate to that end on a temporary basis until one of several delineated long-term goals is achieved;
- that continued placement on a temporary basis is in the child's best interests but that further information about the case is needed; and

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<sup>25</sup> Appendix E

<sup>26</sup> Maryland Code Ann. Section 5-535 et seq.

if the board requests that the court order the agency to provide the needed information.<sup>27</sup>

South Carolina Review Board Statute is specific as to the order in which local boards should consider possible permanent plans. Plans for permanent placement for children are considered in the following order:

return to the home of the birth or custodial parents if conditions have been remedied that caused the removal of the child;

if return home is not possible, the board should ensure that maximum efforts are made to place the child adoptively;

if return home and adoption are not feasible, the board should ensure that every effort is made to implement permanent foster care or guardianship; and

if the child's age so warrants and none of the above-stated plans are feasible, the board should consider a plan of independent living for the child.<sup>28</sup>

Many review systems have staff present at the review hearings to document review board findings and recommendations and to advise the board of statutory mandates regarding the recommendations issued.

## POST-REVIEW

### Processing and Distribution of Recommendations

Review boards are generally required to prepare written summaries of their findings and recommendations. The final recommendations are sent to the court, agency and parties. The review board's findings and recommendations usually represent a consensus of opinion. Some review systems will indicate if there has been a difference of opinion among review board members as to the appropriate resolution of the case.

The state systems have different methods of distributing the recommendations. Generally, distribution of written findings and recommendations is a staff function. In some states, such as Maryland, copies of the recommendations will be sent to the child welfare agency first for review, and then to the court.<sup>29</sup>

### Non-Concurrence with Case Recommendations

State systems vary as to the steps to be taken following a contested review, when the review board's recommendations differ from the agency's plan. Some systems have established formal procedures where there is lack of agreement concerning the appropriate permanent placement plan for the child. In Delaware, for example, it is presumed that the agency agrees with the recommendations and will act accordingly unless the agency takes affirmative action to notify the panel to the contrary. Under Delaware law, when such notification is made, the panel or any party may petition the family court within fifteen days to hold a judicial hearing.<sup>30</sup>

<sup>27</sup> New Jersey Code Section 30:4c-61 1(c) (1987, as amended)

<sup>28</sup> e.g. South Carolina Code Ann. 20-7-2376 et seq. (Supp. 1987); South Carolina Foster Care Review Board Handbook, (1991).

<sup>29</sup> Maryland Code Ann. Section 5-545

<sup>30</sup> Delaware Code Ann. Section 3801 et seq. (1979)

# Alaska State Legislature

## SENATE

Official Business

P.O. Box A  
State Capitol  
Juneau, Alaska 99811

February 9, 1991

Commissioner Millett Keller  
DEPARTMENT OF ADMINISTRATION  
P.O. Box C  
Juneau, Alaska 99811

Dear Commissioner Keller,

Thank you for meeting with me recently to discuss the future of citizen review panels for children in out-of-home placements. I indicated to you I would furnish additional information.

I will present some fiscal facts first. Using FY88 figures, the average cost of foster care in Alaska per child per month is \$551.84, or \$6,622.00 a year. If the child is in residential care, the cost increases to \$90 per day, \$2700 per month, or \$32,400 per year.

The \$503,000 cost of citizen review panels for one year equals only 3% of the \$13,626,600 FY92 request for formula funded foster care which covers placement costs. This program will help to reduce the ever-increasing foster care costs and reduce the length of time a child spends in foster care, the 3% investment is worth it. Likewise, the citizen review panel cost equals only 4% of the \$11,164,100 FY92 request for formula funded residential child care.

The Anchorage Citizen Review Pilot Project determined that there was a cost savings when citizen reviews were done. That project used a control group for comparative analysis. Children whose cases were reviewed by the Citizen Review Board averaged 50 days less in foster care than the control group whose cases were not reviewed by the board.

The Nebraska Citizen Review Board compiled information through research done by Ann Coyne, Ph.D. at the University of Nebraska. Dr. Coyne discovered a cumulative cost savings. Reviewed children were more likely to be adopted, be placed with relatives, or be placed in more homelike foster care as opposed to the institutional setting. Savings the first year of the study were \$236,880. Due to the fact that a number of

the adoptions occurred with older children who had been in the system and were deemed likely to remain in the system until emancipation, a cumulative savings was seen (ie. the anticipated costs of those children for each year until emancipation were dropped the year they were adopted). Second year savings were \$277,200 plus the cumulative savings factor. Savings the third year were approximately \$249,480 plus the cumulative savings factor. "Of particular interest (was) the fact that all but 2 of the 32 adoptions of the reviewed children occurred without the assistance of subsidy resulting in a large cost savings." (1985 evaluation, page 79)

In the final report of the Anchorage Foster Care Review Board, there is a historical section on citizen foster care review in the U.S. (pages 2-4). The report states that of the states which created Citizen Foster Care Review systems, "Each of these states saw a reduction in the cost of foster care after overcoming the initial fiscal impact of beginning a foster care review system. Delaware realized savings of at least \$25,000 for each child in foster care whose permanency planning resulted in adoptive placement. This resulted in a two year savings of over \$1.5 million dollars that would cover the operational costs of Delaware's Foster Care Review operation for more than 13 years.

It has been documented many times historically that high risk children have a higher incidence of showing up later in youth or adult detention facilities. In the book, High Risk: Children Without a Conscience, Foster Cline of Evergreen Consultants in Human Behavior states "For every dollar we spend on seriously troubled adults, we get a nickel back. For every dollar we spend on seriously troubled youth, we get 50 cents back. For every nickel we spend on seriously disturbed infants, we get a dollar back."

The average cost per year per incarcerated adult in Alaska is \$30,660. The average cost per year per incarcerated youth including costs of a treatment program is \$59,927. And that figure is for McLaughlin Youth Center whose costs represent a lower average than other facilities. This illustrates the old saying "An ounce of prevention is worth a pound of cure" or "We can pay now or we can pay later."

During the interim in 1988, the House Health, Education, and Social Services Committee held numerous hearings and meetings on the Alaska foster care system. One of the recommendations was to create a statewide citizen review system.

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February 9, 1991  
Commissioner Millett Keller

Performance audits of the Division of Family and Youth Services over a period of years, including one as recently as 1990, have stated the same deficiencies again and again. One recurring deficiency has been the lack of case plans for children in foster care. Due to some of these deficiencies, federal grant monies of approximately \$185,000 had to be returned when the division failed an audit for FY88.

In New Mexico, child protective services had severe problems. The court ordered certain actions be taken to remedy the situation. One of those court-ordered actions was to implement a citizen review board. In a pilot project in Snohomish County in Washington State, a report stated that 88% of the caseworkers believed citizen review had a positive impact on permanency for children, 100% of the guardian ad litem believed the boards had a positive impact on permanency, 88% of parents' attorneys felt review boards would have a positive impact on permanency. This illustrates another benefit of the program. In states where citizen review panels are in place, interacting agencies such as those mentioned above, as well as the court system, have experienced an improved spirit of cooperation as well as some cost reductions in their respective agencies. Community cooperation and awareness has increased as citizens have become involved. More people have been willing to become foster parents in many of these states. A cost-savings is also realized by utilizing citizen volunteers. Bill Hitchcock, Master of the Children's Court and a board member for the National Citizen Review Board, wrote you recently about his personal concerns regarding your proposed action. I believe Master Hitchcock addresses the value of volunteers in his letter to you.

I encourage you to contact Master Hitchcock, Judge Thomas Schulz in Ketchikan, and Carol Stitts, Director of the Nebraska Citizen Review Board if you have not already done so. I would be happy to supply you with the names of directors in other states or furnish you additional information if you wish.

It is not often that in addition to support from many of Alaska's citizens and groups such as the Alaska Chapter of the National Association of Social Workers, the Alaska Foster Parent Association, and the Tanana Chiefs, a bill of this magnitude receives such widespread bipartisan support that it passes both the House and Senate unanimously with funding intact. I also remind you that if fiscal conservatism is considered, very concentrated, coordinated, and successful efforts were made to reduce the initial fiscal note from \$1.5

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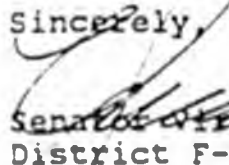
million to \$570,000.

Given the outcome of the pilot programs in Alaska and the success of the programs in 21 other states, it would appear prudent to give child care citizen review boards a try in Alaska. There is a sunset provision in this law. The date is June 1, 1994. The sunset date appears to be a more appropriate time to make a determination about the necessity and the merits of the program.

Due to the nature of your letter and our discussions, I have focused primarily on the fiscal aspects of the program and the fact that there are serious deficiencies in the current system. The most important consideration is the quality of care these children need to receive and the consequences that can result if there are deficiencies in this system. I have attached some information regarding the psychological, sociological, and physical impacts this can have on children.

In addition to my concern, I have received calls from a number of legislators and other people who have expressed utmost concern about your proposed action. I continue to feel that it would be a grave error to eliminate the program or funding for the program. I urge you to reconsider your position. Please do not hesitate to contact me if you need additional information.

Sincerely,

  
Senator Virginia Collins  
District F-B

enc.

Title IV-E  
Review  
Criteria

(6) The term "administrative review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

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- (i) the names and addresses of the child's health and educational providers;
- (ii) the child's grade level performance;
- (iii) the child's school record;
- (iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;
- (v) a record of the child's immunizations;
- (vi) the child's known medical problems;
- (vii) the child's medications; and
- (viii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

(2) [Unchanged]  
(3) The term "adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

(4)(A) The term "foster care maintenance payments" means payments to cover the cost of (and the cost of providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

- (B) In cases where—
  - (i) a child placed in a foster family home or child care institution is the parent of a son or daughter who is in the same home or institution; and
  - (ii) payments described in subparagraph (A) are being made under this part with respect to such child,
 the foster care maintenance payments made with respect to such child as otherwise determined under subpart A shall also include such amounts as may be necessary to cover the cost of the son or daughter.

(5) The term "case review system" means a procedure for assuring that—  
(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents home, consistent with the best interests and special needs of the child, which—

- (i) if the child has been placed in a foster family home or child care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child; and
- (ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located.

- (iii) the status of each child is reviewed periodically but not less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the continuing necessity for and appropriateness of the placement; the extent of compliance with the case plan; and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care; and to present a liberty date by which the child may be returned to the home or placed for adoption or legal guardianship.
- (iv) with respect to each such child, procedural safeguards will be applied, among other

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42 USCS § 675

things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than eighteen months after the original placement (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis) and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child; and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living, and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; and  
(D) a child's health and education record (as described in paragraph 11(A)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.

(6) [Unchanged]  
(Aug. 14, 1945, ch. 541, Title IV, Part E, § 475, as added June 17, 1950, P. L. 96-272, Title I, § 101(a)(1), 94 Stat. 510; June 17, 1950, P. L. 96-272, Title I, § 102(a)(4), 94 Stat. 514; Apr. 7, 1949, P. L. 99-272, Title VIII, Subtitle C, §§ 1230(b)(2), 1230(b), 100 Stat. 293, 296; Oct. 22, 1966, P. L. 89-514, Title VIII, § 1711(c)(6), 100 Stat. 2784; Dec. 22, 1947, P. L. 100-203, Title IX, Subtitle B, Part 2, § 910(a), 101 Stat. 1330-314; Nov. 10, 1958, P. L. 100-647, Title VIII, Subtitle B, § 910(a), 102 Stat. 1297; Dec. 19, 1959, P. L. 101-219, Title VIII, § 907(a), (b), 103 Stat. 1062; Oct. 31, 1949, P. L. 101-412, Title II, Subtitle A, § 206(a), (b), 206(a), (b), Subtitle F, § 265(c), 103 Stat. 4457, 4459, 4460.)

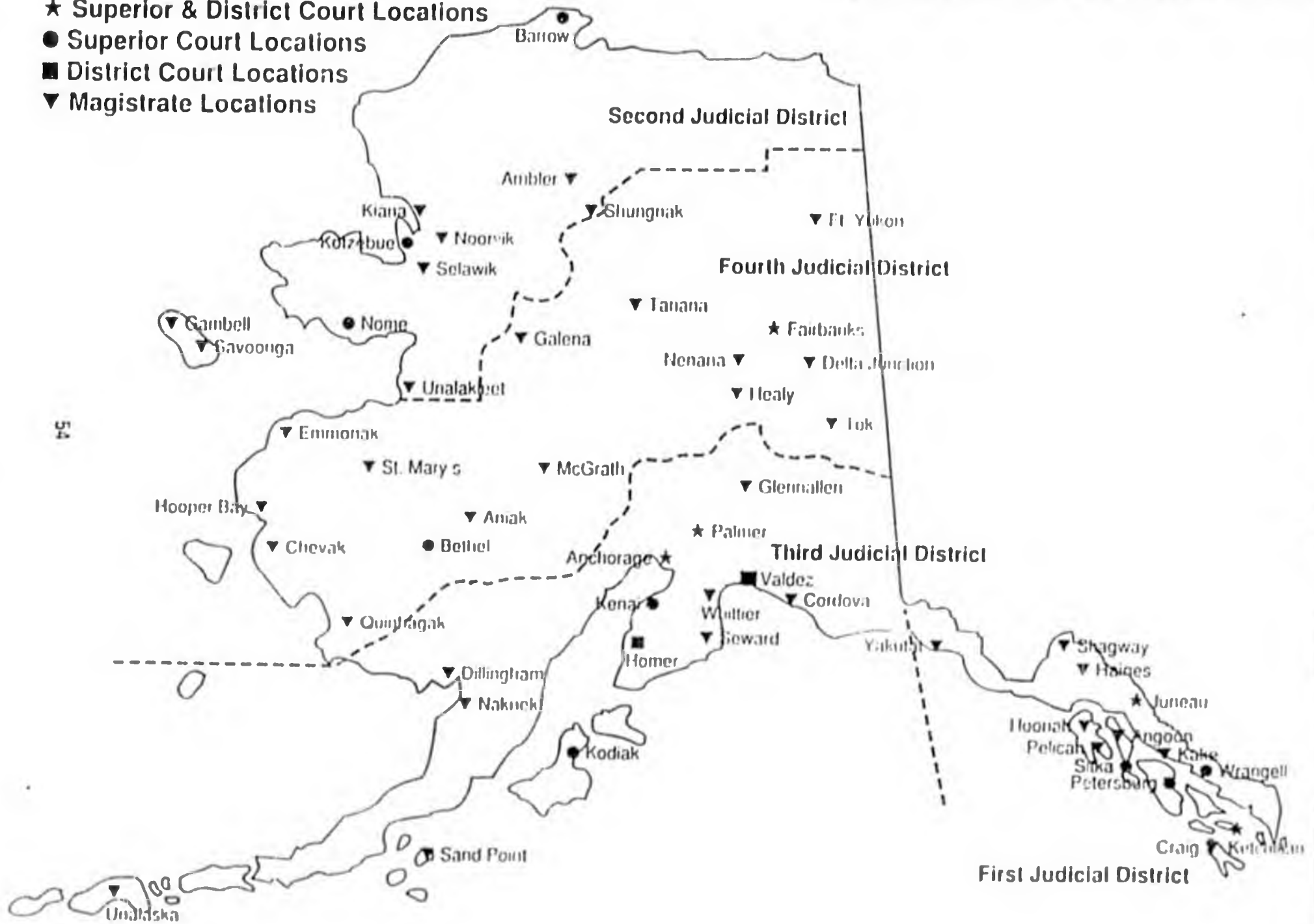
HISTORY, ANCHILARY LAWS AND DIRECTIVES

Amendments:  
1950 Act June 17, 1950 effective only with respect to expenditures made after 9/30/50 as provided by § 102(c) of such Act, as amended, which appears as 42 USC § 672 note, in para. (1), inserted "voluntary placement agreement entered into in 1950. Act Apr. 7, 1949, § 1230(b) in para. (1), added the words beginning "Where appropriate, for a child age 16".  
Section 1230(b)(2) of such Act, in para. (1), substituted "any adoption assistance payments and any other services and assistance for the adoption assistance payments and any additional services and assistance." For application of this amendment, see § 1230(c) of such Act, which appears as 42 USC § 672 note.  
Act Feb. 22, 1949 applicable to expenditures made after 12/31/48 as provided by § 1711(d) of such Act, which appears as 42 USC § 670 note, in para. (1), substituted "(A) for one which read "specifies the amount of any adoption assistance payments and any other services and assistance which are to be provided as part of such agreement; and".  
1947 Act Dec. 22, 1947 effective 4/1/49, as provided by § 910(a), of such Act, which appears as 42 USC § 602 note, in para. (1), amended existing provisions in subpara. (A) and added subpara. (B).  
1958 Act Nov. 10, 1958 effective 10/1/58 as provided by § 910(d) of such Act, which appears as 42 USC § 677 note, in para. (1), inserted "and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living".  
1949 Act Jan. 19, 1949 effective 1/1/49 as provided by § 910(c) of such Act, which appears as a note on this section, in para. (1), designated the former provision "A" and made such changes, added subpara. (A) and designated the former "A" subpara. (B) as para. (1), changing matter, and in para. (1), in subpara. (B), inserted "and, during such period, or in subpara. (1), substituted "and, for the concluding period, and added subpara. (1).  
1944 Act Dec. 16, 1944 effective as amended by Act Jan. 19, 1949, as provided by § 910(d) of the 1949 Act, which appears as 42 USC § 602 note, altered the substance of para. (4) without affecting the text of such paragraph.  
1949 Act Dec. 19, 1949 effective 10/1/49, as provided by § 907(a) of such Act, which appears as a note on this section, in para. (1), inserted "(A) inserted, and made appropriate" and in subpara. (1), substituted "not less frequently than every 12 months" for "periodically".  
Such Act further effective with respect to fiscal years beginning on or after 10/1/49, as provided by § 206(a) of such Act, which appears as a note on this section, in para. (1), in subpara. (A), added "and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living" and in subpara. (1), inserted "and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living".

Title IV-E  
Criteria

# ALASKA COURT LOCATION

- ★ Superior & District Court Locations
- Superior Court Locations
- District Court Locations
- ▼ Magistrate Locations





# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Dept. of Admin.  
 Committee on Foster Care Review Dated 4/22/97  
Committee Name  
Bill / Subject

Attached: PL-96 272

SIGNED:

Jodi Olmstead  
 Testifier  
Concerned Parents For Reform  
 Representing  
PO 56054 / North Pole AK 99705  
 Address / Phone Number  
488-0334

Jodi Ormstead  
488-0354

# I. OVERVIEW OF REVIEW SYSTEMS

## A. PURPOSE OF FOSTER CARE REVIEW

The purpose of foster care review is to ensure that children do not linger unnecessarily in foster care, but rather that they receive the support and benefits of a permanent home. Permanence is defined as a home which holds together during crisis and provides a lasting, trusting, and nurturing environment. The return of the child to the biological family is the ideal permanent goal; however, when this is not possible, the goal becomes placement of the child in an alternative stable, permanent home.

## B. IMPORTANCE OF REVIEW SYSTEMS

### 1. Recognizing the Need for Review Systems

Over 450,000 abused and neglected children pass through the foster care systems in this country every year. Some are victims of "foster care drift" as they are moved from placement to placement. Some are separated from their brothers and sisters. Without effective reviewers advocating on their behalf, many will remain in foster care throughout childhood.

Placement of a child in foster care is intended to be a short-term solution to a crisis situation. In the 1960's, however, foster care was viewed as the only option for many children. No efforts were made to return them to their families or free them for adoption so they could be placed with new permanent families. Children were coming into the foster care system in large numbers and they were not leaving. Vital developmental years were lost as children were shuffled around to many different foster families and group homes.

Throughout the 1970's, judges, social workers, attorneys and child advocacy groups began to recognize that the U.S. foster care system, based on the 1960's model, was failing to respond to the needs of many abused and neglected children and their families. Many children were lost in the system and there were no regular or timely reviews of their placements. Crowded court calendars and understaffed child welfare agencies were contributing to an increase in the number of children entering the system and length of time spent in substitute care.

Concern for children lingering unnecessarily in foster care grew during the seventies. One solution proposed by child advocacy organizations was the comprehensive implementation of a permanency planning case work practice model. A companion solution was creation of a system using citizen volunteers to monitor foster care placements through regular case review and to advocate on behalf of foster children.

### 2. The History of State - Based Review Legislation

Citizen foster care review systems first began in this country as a result of state-based initiatives. In 1974, South Carolina became the first state to enact legislation requiring the establishment of a statewide Foster Care Review System. The following year, after recognizing that legislatively mandating foster care review did not necessarily ensure its implementation, an administrative office and external review boards were established throughout the state. Initial funding of the South Carolina Foster Care Review System

include at least one review panel member not responsible for the provision of services to the child(ren) being reviewed.

The third party review provision of PL96-272 coupled with the success of states that previously enacted citizen review systems, has resulted in a dramatic increase since 1980 in the number of states utilizing citizen review. Citizen review systems are currently in place in 22 states, with at least 7 additional states utilizing citizen participants in internal agency reviews.

4. NCJFCJ Permanency Planning Project

Another reason for the dramatic increase in the use of citizen volunteer reviewers was the encouragement of technical support and training provided by the National Council of Juvenile and Family Court Judges' Permanency Planning for Children Project.

The project was established in 1972 and was designed to make permanency planning a reality in the nation's juvenile and family courtrooms. Judges, who recognized that increasingly crowded dockets and limited financial resources were hindering judicial foster care case review, encouraged the use of volunteer reviewers. The project recognized that these volunteer reviewers could facilitate and compliment the judicial review process by helping to ensure regular and sensitive reviews of every child in foster care.

5. The National Association of Foster Care Reviewers

The need for a central clearing house for pertinent information became apparent as an increasing number of states contemplated establishing foster care review systems. People working with foster care review systems in states such as South Carolina, New Jersey and Arizona spent innumerable hours with representatives from other states interested in passing the necessary legislation to allow implementation of similar statewide review systems. Several states began to maintain an informal network within which to share experiences and information to improve the operation of their programs.

As the number of systems grew, their needs outgrew this informal network. There was a recognized growing need for a national organization to promote citizen involvement in review and to provide assistance to states wishing to include volunteers in the review process. The National Association of Foster Care Reviewers (NAFCR) was organized in February 1986. The initial operating budget for the association was funded through a grant from the Margaret T. Morris Foundation, an Arizona private foundation interested in child welfare issues. The Association has continued to grow through memberships and donations.

NAFCR has expanded its focus to promote permanent families for children by working to assure that every child in foster care receives timely independent, quality case reviews. The Association promotes citizen involvement in reviews, provides training and technical assistance, serves as a resource for information on review, and promotes national awareness regarding the status of children in care.

*Material in Section I. B. was adapted from 'An Overview of Citizen Involvement in Foster Care Review' by Susan Carter, JD for the National Association of Foster Care Reviewers.*

**APPENDIX A**

**PUBLIC LAW 96-272 (THE CHILD WELFARE AND ASSISTANCE ACT)**

In creating PL 96-272, the United States Congress recognized the need to divert funds away from foster care and channel funds toward other alternatives. Congress also recognized, however, that a redirection of funds alone would not be sufficient to address the problems in the child welfare system nationwide or to protect children and their families from abuse by this system. The reforms mandated by PL 96-272 are described below. These reforms are essential elements in any child welfare system designed to ensure permanence for children.

**1. CASE PLANS**

To ensure permanence for all children PL 96-272 requires that the state develop a written case plan on each child in care. This plan must be designed to achieve "placement in the least restrictive (most family like) setting available and in close proximity to the parent's home, consistent with the best interest and special needs of the child."

In order for a state agency to receive federal funds for these programs, these case plans must specifically describe:

- a. the type and appropriateness of the child's placement;
- b. the care and services that will be provided to the child, biological parents and foster parents;
- c. how the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement;
- d. plans for carrying out the voluntary placement agreement or judicial determination that brought the child into care;
- e. the appropriateness of the services to be provided to the child and family under this plan.

**2. SEMIANNUAL REVIEWS AND DISPOSITIONAL HEARINGS**

With regard to periodic case review, PL 96-272 specifically requires:

- a. a two-tiered review system to be in place, with review by a court or administrative body at least every six months and a dispositional hearing by a court or judicially sanctioned body within eighteen months of placement and periodically thereafter;
- b. a six month review panel to consider the continuing need for placement, compliance with the case plan, progress made on the plan and a projected date for permanent placement of the child;



# GUIDELINES

*for a  
Model System*

*of  
Protective Services*

*for*

 *Abused and Neglected Children*

*and*

 *Their Families*

National Association of Public Child Welfare Administrators

An Affiliate of the American Public Welfare Association

1125 Fifteenth Street, NW, Washington, DC 20005

202-293-7350

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## LEGAL RIGHTS OF CHILDREN AND PARENTS IN THE CONTEXT OF THE *GUIDELINES*

by Robert M. Horowitz

Associate Director, National Legal Resource Center for Child Advocacy and Protection, American Bar Association, Washington, D.C.

"The Constitution is verbally silent in the specific subject of families."<sup>1</sup> Recently, a law professor characterized the "central theme of the original founder's discussion of families" as "silence - absolute and deafening."<sup>2</sup>

### The Historical Perspective

This silence prevailed for over a century and quarter. Not until 1923 did the U.S. Supreme Court first interpret how the Constitution applied to state intervention into family life. Since then, the Court has assessed the constitutionality of several state statutes which potentially interfere with parental child rearing autonomy. In each case, unless the child's physical or mental health was in jeopardy, the Court has invalidated the statute.<sup>3</sup> These holdings rest upon parents' Fourteenth Amendment due process rights to rear their children without undue state interference.

In these rulings, the Court has consistently interpreted the "liberty" guarantee of the Fourteenth Amendment to include freedom of choice and action in important personal matters. The Court has stated that the term liberty "notes not merely freedom from bodily restraint, but also the right of the individual to ... marry, establish a home and bring up children."<sup>4</sup> These and other decisions have found a "private realm of family life which the state cannot enter."<sup>5</sup>

A parent's liberty interest in raising his or her child may, in some instances, fall under state scrutiny. The Supreme Court has clearly recognized such state authority. The decision in *Prince v. Massachusetts*, 321 U.S. 158 (1944), stated that the "family itself is not beyond regulation in the public interest." In addition, as *parens patriae*, the state "has a wide range of power for limiting parental freedom and authority in things affecting the child's welfare."

In a more recent case involving the rights of children whose parents sought to have them committed to a mental institution, the Court reiterated the presumption set forth in *Meyer* and its progeny that parents act normally in their children's best interest. Upon this belief, the Court extended scant due process protections to children in these circumstances. However, the Court provided that this presumption can be overcome, and cited "the incidence of child abuse and neglect as grounds for rebutting parental rights."<sup>6</sup>

When the state elects to intervene in the family, it must heed due process of law, or it may be liable in a civil rights law suit. This applies equally to parent and child. Civil rights actions involve allegations that a person's constitutional or federal statutory rights have been violated under "color of state law." When the alleged violation is attributed to a public agency, the color of state law condition is met, even if it is a local or county agency.

\* Specified due process protections are not easily identified. The U.S. Supreme Court has never ruled on a civil child protection matter. Thus, state legislatures and courts have wide latitude in identifying due process rights for their jurisdictions. However, from the Supreme Court's rulings in several termination of parental rights cases, it is clear that a high degree of due process protections are accorded parents when their child rearing rights are invaded (often just short of those rights afforded a criminal defendant).<sup>7</sup>

Beyond the basic rights to notice and a trial-type hearing, some of the due process rights which some federal courts have extended to parents are:

- Right to counsel at public expense for indigent parents;
- Right to challenge internal agency findings;
- Right to a prompt hearing following an emergency removal of a child; and
- Right to challenge the accuracy of an agency's records and findings.

### Federal Law And The Family

The legality of the *Guidelines* must be assessed against relevant federal law. For purposes of this discussion, two such laws are important, the Adoption Assistance and Child Welfare Act and the federal Child Abuse Prevention and Treatment Act.<sup>8</sup>

In 1980, Congress enacted P.L. 96-272, the Adoption Assistance and Child Welfare Act. This Act conditions the states' receipt of federal child welfare money upon compliance with federal requirements. Most of these pertain to foster care services, for example, case plans and periodic reviews of all children placed out-of-home. The most significant requirements for Child Protective Services (CPS) workers is that preventive services be offered to families in an attempt to avoid out-of-home placements.

Federal courts have equated these requirements to individual rights. That is, parents and children have a right to services and protections contained in the federal Act, assuming that the state participates in the federal child welfare program. Thus, families have a federal right to preventive services. Denial of preventive services could support a civil rights action against the agency.<sup>9</sup>

In many ways, such actions have replaced the questionable constitutional right to treatment. This right, which was widely cited in the early 1970s, applied mainly to involuntarily committed mental patients and juveniles. The theory was that if the state deprived an individual of his or her freedom for purposes of rehabilitation, then the state was obliged to provide treatment. In recent years, courts have backed away from this constitutional right. However, with its emphasis on preventive and rehabilitative services, the Adoption Assistance and Child Welfare Act essentially creates a federal law right to treatment.

The 1974 federal Child Abuse Prevention and Treatment Act also conditions receipt of federal funds upon the states meeting certain eligibility requirements.<sup>10</sup> However, unlike P.L. 96-272, this Act has never been interpreted as extending individual rights which are enforceable in a court of law.<sup>11</sup> Rather, the sole remedy for a state's failure to meet eligibility criteria is loss of federal child abuse funds.

### State Law And The Family

State law is the source of legal authority for CPS intervention. This law must accommodate the constitutional and federal rights of children and parents. While state law may grant greater rights, these must not conflict with constitutional or federal law. For example, state law routinely describes the procedure for taking a child into protective custody; that procedure must be consistent with due process of law.

Violations of constitutional or federal statutory rights may result in civil rights actions. An agency's inattention to state law, or even its own policies, also carries legal risks. Such actions may lead to civil law suits based upon negligence. In other words, parents and children have a legal right to the agency's performance of its duties in accordance with state law. Recently the Court of Appeals for the District of Columbia ruled that the District's CPS agency could be liable for the death and severe injury of two children. Their abuse had been previously reported to the agency, but the agency failed to respond or carry out an investigation as mandated by state law.<sup>12</sup>

### **Guidelines: Constitutional And Federal Law Analysis**

If the *Guidelines* result in state legislation, and if that legislation does not violate federal or constitutional law, then the *Guidelines* will be legal. Where the *Guidelines* result in agency regulations or policy, they must also be measured against state law. Thus, for example, an agency

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should not limit its investigation authority to parental or caretaker abuse and neglect if the state law includes out-of-home abuse within CPS jurisdiction. The *Guidelines* clearly warn of this danger where they state that CPS policy should be designed so that it is consistent with state and federal statutes.

### Mission And Philosophy

The mission and philosophy of the *Guidelines* reflect public policy and social work principles. The constitution and federal law do not address or limit the organizational structure of the CPS system. The service goal of strengthening families, coupled with the reasonable efforts requirements to maintain and protect children in their own homes, adheres to constitutional concepts of family privacy and the requirements of P.L. 92-272. The presumption that parents and caretakers have a right to rear their children, if willing and able to protect them, complies with the liberty interests set forth in *Meyer* and its progeny.

Implicit in these cases is the notion of family diversity, which the *Guidelines* respect. Repeatedly, the U.S. Supreme Court has favored parental child rearing rights over state intrusion based upon the family's "deeply rooted [role] in this Nation's history and tradition." This role has contributed positively to a diverse citizenry. The Court has specifically disfavored the homogeneous child in rejecting "any general power of the State to standardize its children."<sup>13</sup>

### Target Population

The state is free to define child abuse. The principle constitutional limitation concerns the vagueness doctrine. Under it, due process requires that a statute which prohibits certain conduct be reasonably clear and understandable. A citizen of ordinary intelligence must be able to ascertain from a statute's language what conduct constitutes a violation. Further, statutory language should not encourage arbitrary or erratic behavior by the government.

Some commentators have argued that many abuse and neglect definitions, as found in reporting laws, are overly vague.<sup>14</sup> The offending language includes such catch-all terms as "failure to provide parental care" or "negligent treatment." This issue was frequently litigated in the 1970s, however, no court found such language in any reporting law to violate the vagueness doctrine. Rather, courts concluded that "ordinarily reasonable parents" understand what it means to abuse and mistreat a child, and that it would be difficult, "if not impossible," for the legislature to draft highly specific statutes which would protect children and give juvenile courts needed flexibility.<sup>15</sup>

Compared to many existing reporting law definitions, the standards in the *Guidelines* are precise. The document limits the definition to parental acts or omissions which result in death, serious harm or risk of serious harm to the child. As such, the standards in the *Guidelines* would easily pass any vagueness challenge.

A second inquiry is whether definitions in the *Guidelines* are too specific. There is no constitutional prohibition against specific statutory language. However, for purposes of receiving federal child abuse funds, the language must meet federal eligibility criteria. The federal child abuse law and regulations do not limit abuse and neglect definitions to serious harm.<sup>16</sup> At the same time they do not, on their face, prevent a state from qualifying harm in this manner. Without benefit of a clarifying regulation, policy announcement or court ruling, it can only be stated that several states which are currently eligible for federal child abuse funding have similar language in their reporting laws.<sup>17</sup>

The *Guidelines* also limit abuse and neglect to actions by the child's parents or caretakers. Third party cases such as day care employees are specifically excluded; it is argued that such abuse is better handled by the criminal justice system. Under constitutional law this rationale would defeat any equal protection charge.<sup>18</sup> And while the 1984 amendments to the federal child abuse law expanded the definition of abuse to cover out-of-home situations, the commentary to the implementing regulation clarifies that the state may delegate investigative authority in these cases to a non-CPS agency.<sup>19</sup>

Finally, other limits contained in the *Guidelines* — poverty related neglect, educational